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Class E 494

Book U544

FEDERAL AND STATE MILITARY ORGANIZATIONS.

Mr. McCUMBER presented the following

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HISTORY OF CERTAIN FEDERAL TROOPS WHICH, BY REASON OF SHORT OR DISPUTED SERVICE, HAVE NO PENSIONABLE STATUS, AND STATE MILITIAS WHICH WERE ACTIVELY ENGAGED IN THE CIVIL WAR FOR DIFFERENT PERIODS OF TIME, BUT WHICH WERE NEVER MUSTERED INTO THE SERVICE, AND WHICH, THEREFORE, HAVE NO PENSIONABLE STATUS.

FEBRUARY 22, 1910.—Ordered to be printed.

In view of the fact that numerous bills have been introduced during the present and preceding Congresses to give a pensionable status to certain troops, the Committee on Pensions have prepared the following statement regarding the services of such troops, and after a complete investigation it would seem that if any legislation of this character is enacted, such legislation should be extended to include all such troops, instead of giving a pensionable status to some particular company or organization.

There were, as is well known, many persons engaged in some sense in the war of the rebellion as members of state militia, home guards, and other state military organizations who were not regularly enlisted and mustered into the military service of the United States. They were called out and served in various emergencies during the war. Some of these rendered very valuable service, fighting in battle and incurring wounds and injuries, while the service of others was of a minor and trivial character. The border States principally and the Northern States in which hostilities actually occurred were the scenes of their operations and their services were called for by the governors of such States for general and special service therein, though at times the service rendered became incidentally of a national character.

An efficient force of militia of the State of Pennsylvania was called out for a short period at the time of the battle of Antietam, and while none of them, it appears, was engaged in that fight a portion of them stood in line of battle in close proximity to the field in readiness to advance while the battle was in progress. So also were Pennsylvania militia called into service in 1863, at the time of Lee's campaign in Maryland and Pennsylvania, which culminated in the battle of Gettysburg, and they gave great moral support and rendered important service to the Union Army engaged in that fierce conflict. Other States furnished militia at the same time.

In the border States numerous state militia and home-guard organizations were maintained. This was notably so in Missouri and Kentucky, States in which many raids and invasions by the enemy occurred. West Virginia maintained a body of militia, as also did Indiana, and they were called into service in times of various emergencies, especially in cavalry raids made by the enemy into loyal territory; and other States called into their service emergency troops at various critical times, their service being rendered in part in defense of the States wherein organized and in part in defense of the interests of the Federal Government.

In the border States the militia and home guards were frequently engaged in most terrible warfare, and their services in many instances in the protection of their own and the adjacent territory from assaults of guerrillas was rendered under conditions which tested to the utmost their faith in and loyalty to the General Government.

The following, taken from William F. Fox's *Regimental Losses in the American Civil War*, pages 536-537, is to an extent descriptive of the loyalty of the people of the border States:

While the more northern States were confronted with the questions of a war, the border States had to deal with the additional and more serious ones arising from a civil war—a strife in which brother would be arrayed against brother, neighbor against neighbor, and which would be characterized by all the terrible and distracting scenes engendered by such a contest. They were slave-holding States, but they resisted all opportunities to join the Confederacy, and remained loyal to the Union, although they knew full well that such action would transfer the war to their own fields. Missouri knew that by remaining in the Union her counties would be overrun by guerrilla bands and predatory invasions; Kentucky sturdily refused all overtures from the Confederacy, although it was plain that the State would thus become once more “the dark and bloody battle ground” of history; Maryland remained steadfast, and her fields resounded with the tread of armies and the roar of battle; and in West Virginia loyal regiments were formed of refugees who had left their homes, their fields, and barns in the hands of a ruthless enemy. It meant something to be loyal on the border.

And yet these States responded promptly to the calls of the National Government for troops, one of them surpassing all others in its lavish supply of men and money, while the others filled their quotas and did it without a bounty or a draft. The slave-holding States of Delaware, Maryland, West Virginia, District of Columbia, Kentucky, and Missouri not only remained true to the old flag, but furnished 301,062 men for the loyal support of an administration that received scarcely a vote within all their borders.

That the state militia, state military organizations, and home guards on many occasions rendered valuable and efficient service to the United States and to the States in which they were organized, sometimes within the limits of those States and again beyond their borders, is undoubted, and there is abundant evidence thereof. In Missouri and Kentucky, for instance, it may safely be said that the holding of those States in the Union was due to their success in crushing out the disloyal and secession sentiment then prevailing in many localities. In some cases there was but little fighting, but they were often used as guards at various points, relieving troops of the Union Army and enabling the latter to proceed to the front. An article on “Ninety days’ men of 1863, by one of them,” published in the *United Service Magazine* of August, 1894, gives a full description of their services in the Gettysburg campaign. This part says:

With little exception the militia was not brought into mortal conflict, but they were down along the Potomac to do as ordered.

They were moved indiscriminately through Maryland, Pennsylvania, and some even to Virginia and Ohio. They were under orders of officers of the United States.

There were also numerous militia troops furnished the General Government in response to the calls of the President, and a distinction is to be drawn between the military status, in respect to the United States, of the militia so called out and those called by the various governors for state service. The authority to provide for calling the militia or military organizations of a State into the federal service is vested by the Constitution in Congress. The execution of this power was provided for by what is known as "section 1642, Revised Statutes," but more recently by act of Congress approved January 21, 1903, entitled "An act to promote the efficiency of the militia, and for other purposes." By these laws the authority to call into the federal service the militia and military organizations of a State has been by Congress vested in and delegated to the President of the United States.

The state militia or state military organizations that were called into service by the President of the United States, and responding to said call entered into service, became a part of the Federal Army. They became United States troops and then formed a part of the military establishment of the United States and were exclusively subject to the military control or direction of the United States. These troops were on the same footing, practically, as those directly and regularly enlisted and mustered into the military service of the United States, regulars and volunteers, and were subject to the same rules and regulations, the Articles of War, and the laws made and provided for the better government of the permanent and temporary military establishment of the United States.

As regards the militia and military organizations called out by the governors of the various States for service in such States they were on an entirely different footing. These were strictly state troops, mustered in by the States in companies and regiments, received their pay from the States, made their reports to the state adjutant-generals, and were mustered out and discharged by the States. It is true many of them were at times under orders of officers of the United States and sent beyond the limits of their States, but this was demanded by the exigencies of the occasions and in no wise changed their military status from that of state troops. These troops were not enlisted by the United States; the service rendered was usually for short periods and at varying intervals, and they were not bound for the long terms of enlistment usual during the war. After the war the General Government, by authority of Congress, reimbursed the States for the amounts expended in paying state militia and state military organizations, the muster rolls being received as vouchers; beyond doubt they were state militia in the full sense of the term, though many of them rendered service directly in the interest of the United States. They were undoubtedly in the service of the United States in the sense that they performed military duty for the United States, but not in that service in the sense that they were troops of the United States or formed part of its permanent or temporary military establishment.

The distinction between militiamen not in the military service of the United States, although employed by it in a military capacity

and commanded by United States officers, and militiamen or volunteers actually in the military service of the United States, is very clearly shown by one of the basic pension laws, section 4693, Revised Statutes, fully set forth hereinafter. In that law full recognition is given to the militiamen in the military service of the United States, whereas but limited recognition is accorded to the militiamen not in the military service of the United States although employed by it in a military capacity and commanded by United States officers.

PRIOR EFFORTS AT LEGISLATION.

Quite a number of bills have been introduced in Congress during the last ten years or so designed to give something of a military status as of the service of the United States to the officers and men of the state militia and state military organizations called into service during the war by the governors of the various States. Some of these bills confined their benefits to certain Pennsylvania State Militia, particularly those called out in the emergency of 1863. Other bills were framed to give recognition to the militia organizations of any State called out by the state authorities at any time during the war under similar circumstances. In the Fifty-fourth Congress, House resolution No. 51, entitled "A bill for the recognition of the military service of the officers and enlisted men of certain Pennsylvania military organizations," was favorably reported from the House Committee on Military Affairs, with amendments making it applicable to any militia of any State and giving certificates of honorable service according to the service performed. In the Fifty-sixth Congress a similar bill (S. 394) was adversely reported from the Senate Committee on Military Affairs. The report (S. Rept. 899) on this latter bill contained a statement from the Acting Chief of the Record and Pension Office of the War Department embodying a history of former proposed legislation in respect of this matter with pertinent comments relative thereto. That statement is in part as follows:

Recognition of the military service of the officers and enlisted men of certain Pennsylvania military organizations.

A number of bills have been introduced in both Houses of Congress in recent years having for their object a limited recognition by the United States Government of the military services of the officers and enlisted men of certain Pennsylvania State Militia organizations that were called out by the governor of Pennsylvania for the defense of that State during the emergency of 1863; also at least two other measures of wider scope, which included militia organizations of any State, called out by the governor of the State at any time during the civil war under similar circumstances. Of those measures, no one of which has been enacted into law, the following named have been brought to the attention of this department, and some of them have been the subjects of reports by this department to both Houses of Congress:

House bill No. 8878, Fifty-third Congress, third session, one of the earliest introduced on the subject, provided that the officers and enlisted men of the Pennsylvania Militia, furnished under the call made therefor by the President on the 15th day of June, 1863, and by the governor of Pennsylvania on the 26th day of June, 1863, and which rendered actual military service under the command of officers of the United States and in connection with the regularly organized military force of the United States, should be held and considered to have been in the military service of the United States and should be furnished with discharge certificates by the Secretary of War. A full report on the legislation proposed in that bill was furnished the Committee on Military Affairs, House of Representatives, February 20, 1895.

Senate bill No. 2761, Fifty-third Congress, third session, was of similar import to House bill 8878, same session. A full report on the Senate bill was also furnished the Committee on Military Affairs, United States Senate, February 16, 1895.

House bill No. 51, Fifty-fourth Congress, first session, was of nearly the same import as the bills above mentioned, but omitted the words "and by the governor of Pennsylvania on the 26th day of June, 1863," and provided that the proposed beneficiaries should have been "honorably discharged" members of state organizations. That bill is the subject of House Report No. 1694, same session, which report embodies, among other things, a copy of the report of this department of February 16, 1895, above mentioned, and of a letter of the Secretary of War, dated January 11, 1896, in connection with a similar measure, H. R. 3358, same session.

House bill No. 3358, Fifty-fourth Congress, first session, was of practically the same import as the measure last above mentioned, except that it described the proposed beneficiaries in the same language as did H. R. 8878, first above mentioned. In connection with H. R. 3358 the chairman of the Committee on Military Affairs, House of Representatives, having requested an expression of the views of this department as to the reason for the proposed legislation, a letter, which is above referred to, was addressed to him by the Secretary of War, as follows:

WAR DEPARTMENT,
Washington City, January 11, 1896.

SIR: Referring to your letter of the 8th instant, in which you request to be advised what reason there is for the legislation proposed in H. R. No. 3358, providing "for the recognition of the military service of the officers and enlisted men of certain Pennsylvania military organizations," I beg to invite your attention to the report of February 16, 1895, from this department, on H. R. No. 8878, Fifty-third Congress, third session, which contains all necessary information relative to the organization and service of this force.

The members of the force, it is presumed, have received all the pay and allowances generally payable to militia in the military service of the United States for the same period, and it is understood that by a decision of the Assistant Secretary of the Interior (No. 93, of March 3, 1892, in the case of Randolph M. Manley) they have been given a pensionable status. Whether this ruling still holds is unknown to this department. However, it is expressly provided in the bill that the proposed legislation shall carry with it no pay, pension, bounty, or allowances. Its object and effect appear to be sentimental rather than practical, giving to the surviving members of this militia force only such prestige as follows from the service in and honorable discharge from the military establishment of the United States, including, it is presumed, a certain standing which they do not now possess in relation to the patriotic societies composed of ex-soldiers of the late war.

Very respectfully,

DANIEL S. LAMONT,
Secretary of War.

THE CHAIRMAN OF THE COMMITTEE ON MILITARY AFFAIRS,
House of Representatives.

Senate bill No. 1363, Fifty-fourth Congress, first session; Senate bill No. 1278, Fifty-fifth Congress, first session; and House bill No. 8808, Fifty-fifth Congress, second session, were of the same import as House bill No. 3358, above mentioned.

Senate bill No. 1286 and House bill No. 1092, Fifty-fifth Congress, first session, had in view the same object as the other measures above mentioned, but provided that the beneficiaries should include the officers and enlisted men of military organizations which were furnished by any State under call made therefor by the President and by the governor of such State, and which rendered actual military service outside their respective States under the command of officers of the United States and in connection with the regularly organized military forces of the United States.

House bill No. 1065, of much wider scope than any of the bills hereinbefore mentioned, was introduced in the House of Representatives, Fifty-fifth Congress, first session, and has been reintroduced in the present session of the Fifty-sixth Congress as H. R. 4457, providing for similar relief for the "officers and enlisted men of militia organizations which were furnished by any State under the call made therefor by the President and the governor," no restriction being provided in said bills, as in the bill now under consideration, as to military service, "beyond the confines of the State."

The Senate bill now under consideration, relating, as it does, to the Pennsylvania Militia of 1863, materially reduces the application of the proposed legislation as originally formulated by restricting it, first, to the Pennsylvania Militia of 1863, and, second, to members of such organizations as under certain conditions "rendered actual military service beyond the confines of the State of Pennsylvania."

Touching the question of the advisability of the legislation proposed in this bill, it is deemed proper to state that if it is to be enacted for the benefit of the Pennsylvania Militia of 1863, no reason appears why it should not be extended to any other militia which, under similar circumstances, rendered actual military service beyond the confines of the State.

With reference to all the measures under discussion, it is to be considered that none of the troops for whose benefit the legislation is proposed were in fact in the military service of the United States, and that, owing to the meagerness of authentic record of the individual services of the officers and enlisted men of state militia organizations, it can not be stated with any degree of certainty, nor can it now be even approximated, to what extent it would be possible to carry such legislation into effect, for the reasons, first, that it would be difficult in many cases to determine what officers and enlisted men had been honorably discharged by the State from the state service, and, second, that there is a lack of sufficient data in this department for the preparation of the discharge certificates provided for in the pending bill. And with reference to the particular measure now under consideration, it is doubtful whether it can be determined with any degree of certainty from the official records of this department what organizations of Pennsylvania Militia of 1863 did or did not render actual military service beyond the confines of the State of Pennsylvania under the conditions mentioned in the bill.

It is deemed proper to further remark that the particular class of the Pennsylvania State Militia of 1863, for whose benefit the legislation proposed in the bill now under consideration is intended, was not brought into service under the call of the President of June 15, 1863, as stated in the bill, but under the call of the governor alone—the call of June 26, 1863.

A history, so far as known to this department, of that class of the Pennsylvania State Militia called out during the emergency of 1863, of which the proposed beneficiaries in this bill formed a part—sometimes known as the “ninety-day State Militia”—is contained in a letter from this Office to the Commissioner of Pensions dated February 13, 1899, a copy of which accompanies this report.

Respectfully submitted.

JOHN TWEEDALE,
Acting Chief Record and Pension Office.

RECORD AND PENSION OFFICE,
War Department, March 1, 1900.

THE SECRETARY OF WAR.

As is very properly observed in the foregoing statement no reason appears why any legislation deemed proper in the interest of the Pennsylvania State Militia should not be extended to include other state militia that rendered similar service. It is also observed how difficult it would be, because of the incompleteness of records in the War Department, to carry such legislation into effect; in fact it seems almost impracticable to do so with equal justice to all concerned.

PENSIONABLE STATUS.

The pensionable status of the various militiamen is determined by sections 4693 and 4722 of the Revised Statutes and by the act of Congress approved February 15, 1895.

The first subdivision of section 4693, Revised Statutes, confers a pensionable status upon—

any officer of the Army, including Regulars, Volunteers, and militia, or any officer in the Navy or Marine Corps, or any enlisted man, however employed, in the military or naval service of the United States or in its Marine Corps, whether regularly mustered or not, disabled by reason of any wound or injury received or disease contracted while in the service of the United States and in line of duty.

Under this subdivision the state militia or state military organizations called into the service of the United States by the President have a pensionable status. As before observed the state militia or state military organizations thus called into the service of the United States became a part of the military establishment of the United

States just the same as its Regulars and Volunteers and the members thereof are entitled to the benefits of the pension laws in precisely the same manner and under the same conditions as those who were regularly enlisted directly into the United States armies. They were in fact volunteers of the United States and served as such and are entitled to the benefits provided by law for such service. Their title to pension, not only under the general law, but also under the act of June 27, 1890, is fully recognized.

By section 4722, Revised Statutes, a pensionable status under the general law was given to the officers and men of the Missouri State Militia and the provisional Missouri Militia, and by a joint resolution approved February 15, 1895, the benefits of the act of June 27, 1890, were extended to the members of these organizations. The pensionable status given the members of these organizations was probably due in part to the fact that they were made up as a "picked force," organized under an agreement between Governor Gamble of Missouri and President Lincoln, and also in part to the fact that their service was of a more permanent character than was usual to militia troops.

The third subdivision of section 4693, Revised Statutes, provided a pensionable status for—

any person not an enlisted soldier in the army, serving for the time being as a member of the militia of any State, under orders of an officer of the United States, or who volunteered for the time being to serve with any regularly organized military or naval force of the United States, or who otherwise volunteered and rendered service in an engagement with rebels or Indians, disabled in consequence of wounds or injury received in the line of duty in such temporary service. But no claim of a state militiaman or nonenlisted person on account of disability from wounds or injury received in battle with rebels or Indians, while temporarily rendering service, shall be valid unless prosecuted to a successful issue prior to the fourth day of July, eighteen hundred and seventy-four.

This is the law under which state militiamen not in the military service of the United States, although employed by it in a military capacity and commanded by United States officers, were pensioned. The limitations contained in this law markedly narrowed its benefits. It gave a pensionable status to the member of a militia of any State serving under orders of an officer of the United States who became disabled in consequence of wounds or injury received in battle with rebels or Indians, but only in case the claim was filed and successfully completed prior to the 4th day of July, 1874. For any disability other than wounds or injury received as specified no provision was made, nor is any claim for any disability valid if filed on or since July 4, 1874, or filed, but not completed, prior to that date, so that it may be said that at the present date no pensionable status exists for any member of any state militia not called into service by the President of the United States, no matter when, where, or under what circumstances such militia service was rendered or disability was incurred. The act of June 27, 1890, provides no pensionable benefits for such militiamen.

A clear and concise statement of the pensionable rights of the members of the various state militia and state military organizations, both under the first and third subdivisions of section 4693, Revised Statutes, and also under section 4722, Revised Statutes, and the acts of June 27, 1890, and February 15, 1895, together with a citation of numerous decided cases, is contained in a decision of Assistant Secre-

tary of the Interior John M. Reynolds, dated April 14, 1897, in case of James L. Hicks and reported in volume 8 of Pension Decisions, pages 518 et seq. This decision is in part as follows:

The question of the pensionable status of members of various state militia and state military organizations has been frequently before the department, and it is believed that a brief setting forth of certain principles and a citation of cases in connection with such claims will prove beneficial in order that a proper understanding of the laws applicable to such cases may be had, not only as regards those individuals who were members of Missouri organizations, but also members of militia or military organizations of other States as well.

The first and third subdivisions of section 1693 of the Revised Statutes bestow a pensionable status upon certain classes of soldiers and individuals whose military service may be termed to have been an irregular service, and the following is directed to the pensionable status, as to service only, of such classes of soldiers as are embraced in the said subdivisions of such sections:

The first subdivision bestows a pensionable status upon "any enlisted man, however employed in the military or naval service of the United States, or in its Marine Corps, whether regularly mustered or not."

Under this subdivision, so far as state militia or state military organizations are concerned, is embraced any soldier whose organization was (although not a part of the Regular or Volunteer Army) called into the federal service.

The authority to provide for calling the militia or military organizations of a State into the federal service is vested by the Constitution in Congress. (Art. I, sec. 8, fifteenth enumerated power.) Congress has provided for the execution of this power in what is known as section 1642, Revised Statutes, which is virtually a reenactment of the act of February 28, 1795. This statute has been construed by the Supreme Court of the United States in *Martin v. Mott* (Wheaton 19), in which opinion it was concluded, the entire court concurring, that the authority to call into the federal service military organizations of a State has been by Congress vested in and delegated to the President of the United States.

Provided, then, that the said militia or military organization was called into service by the President, said organization was then part of the Federal Army, and the soldier who was a member of such organization is entitled to the same benefits of the pension laws as those who were regularly mustered.

Subdivision 3 of said section bestows, first, a pensionable status upon "any person, not an enlisted soldier in the army, service for the time being as a member of the militia of any State, under orders of an officer of the United States;" and second, it bestows a pensionable status upon any person who "volunteered for the time being to serve with any regularly organized military or naval force of the United States or who otherwise volunteered and rendered service in any engagement with rebels or Indians, disabled in consequence of wounds or injuries received in the line of duty in such temporary service."

A limitation, however, is put upon both classes of those claiming under subdivision 3, which limitation cuts off the pensionable status unless said person received a "disability from wounds or injuries received in battle with rebels or Indians while temporarily rendering service," and that no claim of the aforesaid persons "shall be valid unless prosecuted to a successful issue prior to the 4th day of July, 1874."

It is readily seen by the above that there are two classes embraced under subdivision 3. The first class covers those who were militiamen, and the second class those who rendered personal service, independent of the fact that they were members of any military organization. It therefore follows that in adjudicating claims of militiamen who claim under either subdivision, by reason of their being members of certain organizations, it is necessary in order to establish a pensionable status that the claimant's military organization must have been legally placed or served under the direct authority of an officer of the United States; and further, the limitations in subdivision 3 cover all who claim under said subdivision, whether they claim by reason of being members of militia, or by reason of individual service.

The test, then, to be applied, when one claims pension under the general law by reason of the fact that he was a member of a state militia, is twofold. First, was the militia of which he was a member called into service by the President of the United States? If so, the claimant has a pensionable status under subdivision 1, section 4693 of the Revised Statutes; and, second, if the above is answered in the negative, the test is, was the militia of which he was a member acting under orders of an officer of the United States during the time at which he alleges incurrence of wound or injury? If this is proved in the affirmative, claimant has a pensionable status as a member of class 1, subdivision 3, section 4693 of the Revised Statutes. But it is to

be specially noted that no claimant has a pensionable status under either class of subdivision 3 unless he has incurred a wound or injury in battle with rebels or Indians, and that, furthermore, the claim must be prosecuted to a successful issue prior to July 4, 1874.

Applying the above tests, opinions have been rendered regarding the status of certain military organizations falling under section 4693, to which reference is hereby made, as follows:

[Subdivision 1, section 4693, Revised Statutes.]

Militia called out and mustered into service under the President's proclamation of April 15, 1861, and who may be disabled in the service, are entitled to pension benefits of the second section of the act of August 2, 1813. (Atty. Gen. Bates, 10 Op., 197.)

Sixth Regiment of Delaware Volunteers was mustered into the service of the Federal Government, and members of said regiment have pensionable status under the general law. Dicta in *Sarah A. Kersey* (Asst. Sec. Bussey, 6 P. D., p. 1).

Company A, Indiana Legion, was never in the service of the Federal Government. Widow of G. W. Devine (Asst. Sec. Reynolds, 112 L. B., 461).

Company B, North Cumberland Battalion, Kentucky State Guards, was never in the Federal service. *Robert Baldwin* (Asst. Sec. Reynolds, 114 L. B., 225½).

Company F, Sixty-fifth Kentucky Enrolled Militia, was never in Federal service. *Jonathan Stanbooy* (Asst. Sec. Reynolds, 113 L. B., 96).

Company H, Fifty-eighth Pennsylvania Militia, was called into service by the President of the United States, and members thereof have pensionable status under the first subdivision of section 4693, Revised Statutes. *B. F. Beazel* (Asst. Sec. Bussey, 5 P. D., 384).

Forty-seventh Regiment, Pennsylvania Militia Volunteers, was called into service by the President of the United States, and members of it are within the first subdivision of section 4693, Revised Statutes. *Randolph M. Manly* (Asst. Sec. Bussey, 5 P. D., 295).

Colonel McLane's Erie Regiment, Pennsylvania Militia, was solely a state organization and was never in the Federal service, never did any service for the Federal Government, and members thereof have no pensionable status. *A. J. Wolverton* (Asst. Sec. Reynolds, 110 L. B., 487).

Tenth Pennsylvania Reserves was called into service by the President, and members thereof have pensionable status within subdivision 1, section 4693, Revised Statutes. *William G. Trice* (Asst. Sec. Reynolds, 7 P. D., 85).

Forty-second Pennsylvania Volunteers was in the service of the Federal Government for a period subsequent to July 13, 1863. *Samuel M. Gring* (Asst. Sec. Bussey, 62 L. B., 188).

According to the report of the War Department there are no rolls of this organization (Third Quartermaster Volunteers) on file, and the forces were held by that department to have been not a part of the Volunteer Army because never mustered into the United States service. A member of said organization is, therefore, not pensionable under the third paragraph of section 4693, Revised Statutes, or under the act of June 27, 1890. *Widow of J. C. Rambo* (Asst. Sec. Reynolds, 111 L. B., 68).

(NOTE.—In this decision the holding appears to be upon the technical ground that soldier was never mustered into the federal service, but the facts, set out in the opinion, show that claimant should have been rejected on the ground that said organization was an irregular one, was never a part of the Federal Army, and that the issue as to whether or not said military organization was a part of the Federal Army can not be proved by ex parte evidence unsupported by a record of some kind.)

[Subdivisions 1 and 3, section 4693, Revised Statutes.]

The existence of a state military organization and the fact that said organization was in the federal service can not be proved by ex parte affidavits unsupported by a record of any kind. *Louisa S. Norris* (5 P. D., 42, overruled); *Alvin West* (Asst. Sec. Reynolds, 7 P. D., 74); *widow of John Riling* (*ibid.*, 122 L. B., 184).

Captain Dickey's company of Alabama Volunteer Scouts and Guides was an irregular organization, which was hired for a certain length of time by General Thomas at an agreed price per diem. They were never a part of the Federal Army, and the act of March 3, 1869, provided for their pay, did not confer a pensionable status upon members of that organization. *Marion Berry* (Asst. Sec. Reynolds, 113 L. B., 339); *James West* (Asst. Sec. Reynolds, 126 L. B., 214); *M. R. Latham* (Asst. Sec. Reynolds, 148 L. B., 403).

Captain Springfield's company Independent Scouts and Guides was never in the federal service and have no pensionable status. *Widow of H. B. Springfield* (Asst. Sec. Reynolds, 115 L. B., 457).

Members of Company F, Third Kansas Volunteer Militia, whether called into service by Gen. S. R. Curtis or by the governor of Kansas, have no pensionable status under either subdivision 1 or class 1 of subdivision 3, section 4693, Revised Statutes. John Godfrey (Asst. Sec. Reynolds, 7 P. D., 461).

Halls Gap Battalion, Kentucky State Troops, was never in the federal service and members thereof have no pensionable status. William Walls (Asst. Sec. Reynolds, 118 L. B., 65) and John W. Short (Ibid., 128 L. B., 247).

Members of the South Cumberland Battalion, Kentucky State Guards, have no pensionable status under subdivision 1 or 3 of section 4693, Revised Statutes. Alvin West (Asst. Sec. Reynolds, 131 L. B., 234).

Company F, Twenty-third Kansas Militia, was never in the federal service and members thereof have no title. Charles Morasch (Asst. Sec. Reynolds, 121 L. B., 51).

Company B, Nineteenth Kansas Militia, was never in the federal service and members thereof have no pensionable status. James Richardson (Asst. Sec. Reynolds, 121 L. B., 159).

Company F, Second Kansas Militia, was never in the federal service and members thereof have no pensionable status. Dennis Moriarity (Asst. Sec. Reynolds, 131 L. B., 112).

Fifth Kansas State Militia was never in the federal service and members thereof have no pensionable status. Almira Boyer (Asst. Sec. Reynolds, 120 L. B., 310).

Sandy Valley Battalion, Kentucky Cavalry Guards, was never in the federal service and members thereof have no pensionable status. James O'Brien (Asst. Sec. Reynolds, 118 L. B., 65) and John W. Short (Ibid., 128 L. B., 247).

Company E, Mercer County, Kentucky, Infantry, was never in the federal service, and members thereof have no pensionable status. J. C. Donovan (Asst. Sec. Reynolds, 131 L. B., 234).

Seventeenth Regiment Green River Battalion, Kentucky State Guards, was never in the federal service, and members thereof have no pensionable status. Joseph P. Mills (Asst. Sec. Reynolds, 120 L. B., 217).

Green River Battalion, Kentucky Troops, was never in the federal service, and members thereof have no pensionable status. Marcus Taylor (Asst. Sec. Bussey, 51 L. B., 177).

The act of April 12, 1871, denies a pensionable status to members of Company A, Kansas City Station Guards, Missouri Militia. Thomas Smith (Asst. Sec. Reynolds, 132 L. B., 371).

Neither the One hundred and sixty-seventh West Virginia Militia nor Captain Damron's West Virginia Scouts were ever in the federal service, and members thereof have no pensionable status. Jesse Jarrel (Asst. Sec. Reynolds, 111 L. B., 365).

[Subdivision 3, section 4693, Revised Statutes.]

Widows and minors' claim (state militia volunteers) are under the time limitation in the third subdivision of section 4693, Revised Statutes. Minors of Pharaoh B. Long (Asst. Sec. Bussey, 4 P. D., 22).

Claims of state militiamen must be prosecuted to successful issue prior to July 4, 1874. A. T. Sell (Asst. Sec. Hawkins, 1 P. D., 102). Maria C. Worthington (Asst. Sec. Bussey, 5 P. D., 203).

Members and widows of members of the state militia are not entitled to pension unless such member was wounded in battle. This case is governed by section 9 of the act of July 4, 1864, and the act of March 25, 1862, has no application. Martha A. Foster (Sec. Cox, 6 L. B. P., 519).

Some efforts have been made to collect data regarding the state militiamen of the border States, and the States in which hostilities actually occurred, that were in service during the war, particularly those that rendered service in connection with United States troops and under the command of United States officers; this refers to those militiamen called out, not by the President of the United States, but by the governors of the various States for emergency state service. The records of the War Department are complete as to the militiamen called into the military service of the United States by the President, but the records on file in that department as to the strictly state troops so called are only fragmentary and incomplete. Letters of inquiry have been addressed to the adjutant-generals of Arkansas, Delaware, Indiana, Kansas, Kentucky, Maryland, Ohio, Pennsyl-

vania, Tennessee, and West Virginia for all information afforded by the records of their several offices relative to the various classes of militia and home guards that were in service in those States during the war, their total number, the designations of the organizations composing them, the number or approximate number in each organization, the laws, orders, and regulations under which they were raised, the period of service, and what service, if any, was rendered by them, or any of them, under command of officers of the United States or in connection with United States troops. The replies to these inquiries leave much to be desired and serve to show that the state records were imperfectly kept or have not been collated or systematized. An examination has also been made of the published reports of the adjutant-generals of those States.

The adjutant-general of Missouri was not included in this inquiry, inasmuch as all available information regarding all classes of Missouri troops was furnished by General Ainsworth in Senate Document No. 412, Fifty-seventh Congress, first session.

ARKANSAS.

Hon. Jeff Davis, governor of Arkansas, replying to the letter addressed to the adjutant-general of that State, states that there are no records of the Arkansas Militia that were in service during the war. The report of the adjutant-general of Arkansas for the period of the war of the rebellion and to 1866, prepared by A. W. Bishop, adjutant-general, was published and printed in 1867, at the Government Printing Office in this city, under authority of the Senate. The following "Historical memoranda" regarding the Arkansas militia is taken therefrom:

Prior to the organization of this militia the Union citizens of various parts of the State had acted together for their mutual defense. In the autumn of 1863, in accordance with orders from Major-General Schofield, then commanding the department of the Missouri, several companies of Union men were organized in northwestern Arkansas, the General Government issuing arms and ammunition and when on active duty furnishing them with subsistence. These companies were commanded as follows: In Washington County by Captains Bracken Lewis and Mackey; Benton County, Captain Mizer; Carroll County, Captains Gaddy and Walker, and in Madison County, by Capt. John W. Bivens. There was also a very efficient company organized in West Fork Township, Washington County, whose population was preeminently loyal, and where, perhaps, to a greater extent than in any other single locality in northwestern Arkansas, outside of a military post, rebellion was made odious and bushwhackers received severe and sudden punishment.

Captain Bivens's company was in active service more than a year, participating frequently in raids upon the enemy and in skirmishes without number.

Captains Lewis and Mackey's companies took part in the defense of Fayetteville on the 3d of November, 1864, and all of these organizations rendered valuable aid to the Government, for which they have received no compensation.

In the spring of 1864, while the frontier division of the Seventh Army Corps were in the field cooperating with General Steele, it became necessary for the defense of Fort Smith and the Union men living in the vicinity, to organize there also a local militia. Four companies were thus formed to do duty in the surrounding country, commanded, respectively, by Captains Turner, Smith, Gibbons, and Thomas, the battalion by Maj. Charles C. Reid. Companies were also organized at Ozark and other points on the Arkansas River. At that time guerillas were unusually troublesome in this portion of the State, and in warfare with them, which was actively waged by this militia, Captains Turner, Gibbons, and Thomas and many of their men were killed. These companies likewise have never received pay for their services. At the same time the citizens of Fort Smith were partially organized and drilled, and precautions were taken against an attack upon the town, which was somewhat apprehended when the news reached it of the failure of the Red River expedition, and General Thayer, with the frontier division, was stubbornly falling back with General Steele to Little Rock.

No information as to the strength of these companies is furnished, nor any information as to the service rendered by them more than is stated in the foregoing. In the Forty-seventh Congress, first session, a bill (S. 520) for the relief of Gaddy's company, of Arkansas Home Guards, one of the companies mentioned in the report of the adjutant-general of Arkansas, was made the subject of an adverse report (No. 337) from the Senate Committee on Military Affairs. That report, which contains the facts regarding these organizations and the purposes for which they were raised is as follows:

The bill proposes to pay the officers and men of said company the pay and allowances of volunteers in the United States service during the period of their service. Your committee referred the bill to the Secretary of War for information and report, no evidence having been presented to your committee, and received through the Secretary the following:

WAR DEPARTMENT,
ADJUTANT-GENERAL'S OFFICE,
Washington, February 13, 1882.

SIR: I have the honor to submit herewith a letter of Hon. F. M. Cockrell, United States Senator, of the 24th ultimo, inclosing bill (S. 520, 47th Cong., 1st sess.) for the relief of Capt. George E. Gaddy's company of Arkansas Home Guards, and requesting to be fully advised as to the organization of said company, the number of men therein, under whom and by whose orders organized, where it served, and as to the action had by the War Department touching its service, pay, etc., and to report that—

Captain Gaddy's was one of the companies of home guards called into local service for the protection of the homes of loyal citizens of Arkansas by General Orders No. 129, dated November 4, 1863, headquarters Department of the Missouri (copy hereto appended), and under the provisions of said order the company was to be armed and subsisted by the United States *only when in active service under the orders of the district commander; but was not to be entitled to any pay from the United States or to any supplies except subsistence and ammunition, and was not to be mustered into service of the United States.*

A roll purporting to be a muster-roll of this company, covering a period from February 28, 1864, to August 31, 1864, is on file in this office, and gives the strength of the company as 3 commissioned officers and 60 enlisted men; but said roll can not be accepted as furnishing any authentic information relative to the organization or service of said company in the absence of a muster-in or muster-out roll.

Under the provisions of General Orders, No. 129, before referred to, the companies were not to be called into service as *volunteers*, but simply as militia for local service as home guards, in the protection of their homes.

By letter from headquarters District Southwest Missouri, dated August 1, 1864 (copy appended), a proposition was made to Captain Gadley (Gaddy) to have his company mustered into the service of the United States for twelve months, which would entitle it to the pay and allowances of other United States troops; and September 8, 1864, Special Orders, No. 242 (copy appended), from same headquarters ordered Captain Gaddy to proceed with his command to Springfield, Mo., for the purpose of conferring with the commanding officer of the district in relation to being mustered into the United States service. There is no official record that Captain Gaddy's company was mustered into the United States service or that it performed any service under the orders referred to.

Owing to the circumstances under which it was called into service, no action has been taken by the War Department in relation to service, pay, &c., of this company.

I am, sir, very respectfully, your obedient servant,

R. C. DRUM, *Adjutant-General.*

To the honorable the SECRETARY OF WAR.

[General Orders, No. 129.]

HEADQUARTERS DEPARTMENT OF THE MISSOURI,
St. Louis, Mo., November 4, 1863.

District commanders in the State of Arkansas are authorized to organize the loyal men of that State into companies and regiments of home guards, and to appoint the officers to command them.

The officers must be men of undoubted loyalty, efficiency, and integrity.

The troops so organized will be supplied with such captured and second-class arms as are not required for issue to other troops.

When in active service under the orders of the district commander they will be subsisted from the commissary department like other troops.

They will not be entitled to pay nor any supplies, except subsistence and ammunition from the United States.

These troops will be sworn into the service of the United States to serve as "*home guards*" during the war, unless sooner discharged, and will be subject to military laws and orders, but will only be required to serve for the protection of their homes and their immediate vicinity.

These organizations will take the name of the county in which they are formed.

The names of the officers and the number of men in each organization will be forwarded to department headquarters.

By command of Major-General Schofield.

O. D. GREENE,
Assistant Adjutant-General.

HEADQUARTERS DISTRICT SOUTHWEST MISSOURI,
Springfield, Mo., August 1, 1864.

CAPTAIN: The War Department has authorized the raising of some twelve months' regiments in this State. Troops that muster into these regiments will receive \$100 bounty and the pay and allowances of other United States troops. Colonel Boyde is superintending the recruiting of one regiment in this section of the State, and his brother, Rufus Boyde, will hand you this letter. Your company can muster in as at present organized, or elect new officers, as it may deem best. It is clearly for the interest of your officers and men to muster into the United States service. If you conclude to muster in, you can come up here and be mustered, or the mustering officer in a few days can come to you and muster you where you are. Lay the whole matter before the men, and inform Mr. Boyde before he returns what action your company will take. Send, also, any information you may have of importance.

Very respectfully, your obedient servant,

JOHN B. SANBORN,
Brigadier-General, Commanding.

Captain GADDY,
Commanding Arkansas Militia, Easbys Ferry, Mo.

[Special Orders, No. 242.]

HEADQUARTERS DISTRICT SOUTHWEST MISSOURI,
Springfield, Mo., September 8, 1864.

[Extract.]

* * * * *

II. Capt. George Gaddy, commanding company of Arkansas Militia, now stationed at Easbys Ferry, is hereby ordered to proceed with his command to Springfield, Mo., for the purpose of conferring with the commanding officer of the district in relation to being mustered into the United States service.

Three days' rations will be brought.

* * * * *

By order of Brigadier-General Sanborn.

WM. T. KITTRIDGE,
Assistant Adjutant-General.

It will be seen that by the very order calling for their organization "They will not be entitled to pay nor any supplies except subsistence and ammunition from the United States." They were only required "to serve for the protection of their homes and their immediate vicinity."

Your committee therefore report the bill back to the Senate, with the recommendation that it be indefinitely postponed and the claim therein made be not allowed, and this report be adopted.

In the Forty-eighth Congress, second session, House resolution 159, for the relief of certain officers and enlisted men in the State of Arkansas who served in the war of the rebellion, was adversely

reported from the House Committee on Military Affairs, the report being as follows:

That the companies of Capts. A. H. Alfrey, E. H. Bertram, John Miser, I. W. Bevans, and George E. Gaddy were raised under General Orders 129, issued by Major-General Schofield, commanding Department of Missouri, and dated 4th November, 1863, in which general orders it is stated that they are organized as home guards, and when on active duty will be supplied with subsistence from the Commissary Department as other troops, but that they will not be entitled to pay nor any supplies, except subsistence and ammunition, from the United States.

On the 14th February, 1865, General Reynolds, commanding at Fort Smith, Ark., by general order authorized Capt. G. E. Miller and others to raise companies to be composed of men whose occupation is that of farming, and not soldiering; that they are for local defense, and will receive no pay or subsistence from the Government; and on the 27th May, 1865, he issued another order stopping any further recruiting, and directing all arms to be returned, &c.

A bill was introduced in the Forty-seventh Congress for the relief of Captain Gaddy and his company, which was reported adversely by the Senate Committee on Military Affairs, by S. Report No. 337, filed with the papers in this claim.

Your committee do not controvert the fact that these companies were organized and probably rendered efficient service in protecting themselves and their immediate homes from depredations by lawless bands, but it was expressly stipulated in General Schofield's order authorizing the formation of these companies that they were to receive no pay from the United States for such service, and the same conditions were afterwards announced in the order of General Reynolds authorizing some of them, that no pay or subsistence would be allowed them.

They were never recognized as soldiers, their muster rolls were never returned to the War Department, and your committee can not now, at this late date, recommend that they be recognized and paid as regular soldiers. They therefore report said joint resolution back, and recommend that it do not pass.

The companies authorized by General Reynolds February 14, 1865, asstated in the foregoing report, were commonly known as "colonies," and were simply organized among Union people to prevent destitution among themselves and also to protect themselves while in the pursuit of their usual avocations. Regarding them the published report of the adjutant-general of Arkansas shows the following:

After the unsuccessful attack upon Fayetteville, and the retreat of the rebel army south of the Arkansas River, in November, 1864, large numbers of the Union people, who had during the fall campaign fled to Fayetteville for protection were left entirely destitute of the means of subsistence. In addition to this, the order for the abandonment of western Arkansas was issued in the December following, and caused, until its revocation, the stopping of southbound trains and the further importation of provisions by citizens. To prevent utter destitution and wretchedness, the danger of which was imminent, several armed colonies were organized by Col. M. LaRue Harrison, then commanding the post of Fayetteville, and shortly afterwards a general system, similar in character, was inaugurated by the governor of the State, with the approval of the commander of the department of the Arkansas. The object of these companies is elsewhere more specifically set forth, and occasion will only be taken here to allude briefly to results. In northwestern Arkansas, where Colonel Harrison supervised their organization, colonies were established at various places in Washington, Madison, and Benton counties, and preparations were made by him to organize similar ones in the counties of Carroll, Marion, Newton, and Searcy, when the close of the war rendered their establishment unnecessary.

The Union Valley Post Colony—a type of them all—located near Rhea's mill in Washington County, elected J. R. Rutherford, an old citizen of the county, as their captain, built a strong earthwork stockade and redoubt, erected temporary buildings for their families, and went to work earnestly to cultivate the soil. Religious services were observed; a Sabbath and a day school were established, and a blacksmith and wagon shop, and various other appurtenances of a peaceful community soon sprung up.

As indicative also of the same spirit and necessity in another portion of the State, the following report is presented:

WHITE OAK COLONY, ARK., May 20, 1865.

SIR: I beg leave to submit to you the following report of the White Oak Colony. On the 25th of April, 1865, by special order No. 105, I was assigned to take charge of

this colony. I entered upon my duties the same date, and brought down 16 government teams freighted with families and organized the colony on what is known as the "Fish farm," 5 miles below Pine Bluff, on the bank of the Arkansas River. Since then, and up to the present date, I have the honor to report the present strength of the colony 96 men, home-guard militia (under the command of Capt. James Kennedy), 49 women, and 62 children. I have a day school in operation, with 50 scholars, under a male teacher. I have drawn 48 unserviceable government horses for the use of the colony. Notwithstanding the lateness of the season when I organized the colony, and laboring under great disadvantages in procuring farming implements, I have progressed well with corn crops. At this date I have 250 acres of corn planted, and by the 10th of June we will have between five and six hundred acres planted in corn and potatoes. The gardens are also late, but looking well. This colony is composed of loyal, peaceable citizens, and the home guard do their duty as soldiers on guard and picket. This colony is a success, with no expense to the Government except rations.

Very respectfully, your obedient servant,

WILLIAM LARIMER, JR.,

Captain Company A, Fourteenth Kansas Cavalry.

Brig. Gen. POWELL CLAYTON,

Commander United States forces, Pine Bluff, Ark.

The Arkansas Militia, or home guards, were organized for strictly local service and defense in the protection of their homes. They were never paid by the United States and are not recognized as having any pensionable status.

Arkansas had also one regiment, the Fourth Arkansas Mounted Infantry, which performed active service for several months, but which was never accepted into the military service of the United States. This regiment was enlisted in 1863 and 1864 under authority given by Maj. Gen. Frederick Steele, then commanding United States forces in Arkansas. The enlistments of its members were for the period of one year, and they actually served from six to eight months, taking part in several engagements with the enemy. The War Department, however, refused to confirm the authority for the enlistment of this regiment for one year, and on June 2, 1864, it was ordered disbanded. But the service of the regiment had been actually performed in the field and in the immediate presence of the enemy. The claim of the officers and men of this regiment for pay for their service was twice recognized by Congress. An act was approved March 18, 1873, providing that the Secretary of War should cause their claims to be investigated and paid and a second act was approved February 27, 1899, directing the Secretary of War to further investigate said claims and cause them to be paid, final action having failed under the first act of March 18, 1873. Payment of these claims was made under an appropriation included in the sundry civil bill approved March 3, 1901.

In the Fifty-eighth Congress, second session, a bill (H. R. 14789) to give the officers and men of the Fourth Arkansas Mounted Infantry the benefits of the pension laws passed the House of Representatives, the report from the House Committee on Invalid Pensions, which gives the facts regarding the organization, service, and disbandment of this regiment, being as follows:

As appears from the record of the War Department, the Fourth Arkansas Mounted Infantry was duly and lawfully recruited in 1863, under the orders of Major-General Steele, for the term of one year or during the war. After being recruited the men drew clothing, arms, ammunition, and equipments and rations, but furnished their own horses.

The regiment was officered and under the orders of the commander of the United States forces operating at the time in Arkansas. While thus serving, the regiment, or

part thereof, was engaged in six battles and skirmishes, several of them were killed, others wounded, and still others captured; one of the captured was hung by the enemy and others threatened with hanging, but were saved by counter threats of retaliation, and exchanged. Five members of the regiment died of disease.

After serving faithfully for more than half of the period for which enlisted the regiment was disbanded without any formal muster or discharge, and without ever being paid, because the War Department determined that no more regiments should be mustered for the term of one year. The order of disbandment is as follows:

HEADQUARTERS DEPARTMENT OF ARKANSAS, ETC.,
Little Rock, Ark., June 2, 1864.

* * * *

2. The authority heretofore granted for the enlistment for one year of a regiment of Arkansas troops, to be designated the Fourth Arkansas Mounted Infantry, not having been confirmed by the War Department, the organization is hereby disbanded.

All quartermasters' property and ordnance stores in the possession of the battalion will be turned over to the proper staff officers at Duval's Bluff.

* * * *

By order of Maj. Gen. F. Steele:

BENJ. B. FOSTER,
Assistant Adjutant-General.

After the disbandment of the regiment nearly all of its members suitable for military service joined other regiments, but many were too old or feeble for further service or unwilling to reenlist, and about 75 survive to be benefited by this bill.

The act of the War Department disbanding this regiment was certainly a harsh exercise of authority, as the officer who raised the regiment was expressly authorized by the general commanding in Arkansas to recruit the regiment "for the term of one year, or during the war, if not sooner discharged," as will be seen by the following order:

HEADQUARTERS ARMY OF ARKANSAS,
Little Rock, October 23, 1863.

Elisha Baxter, of Batesville, Independence County, State of Arkansas, is hereby authorized to raise a regiment of infantry to be mustered into the United States service for the term of one year, or during the war, if not sooner discharged.

The headquarters for the recruiting will be at Batesville, Independence County, and all persons recruiting for said regiment will be governed by the regulations for the recruiting service and orders from War Department, Department of Missouri, and these headquarters.

Mr. Baxter will report to these headquarters for such instructions as he may require.

By order of Maj. Gen. F. Steele:

A. H. RYAN, *Capt. & A. D. C.*

The records of the War Department show that there was no valid reason why the men of this regiment were not only mustered, paid, and discharged, if their services were no longer desired; and such seems to have been the opinion of former Congresses, as this regiment has been twice recognized by acts of Congress for its relief. The first act, approved March 18, 1873, providing that the Secretary of War should cause to be investigated the claims of the officers and men and cause them to be paid; and the second act, approved February 27, 1899, directed the Secretary of War to further investigate said claims, and cause them to be paid.

Under this latter act the Secretary of War directed Thomas F. Barr, Assistant Judge-Advocate-General, to proceed to Arkansas and investigate said claims, and as a result of his investigation and report the officers and men of said regiment have all been paid.

Colonel Barr, the officer detailed by the War Department as above stated, makes the following references to this regiment in his report:

"The men composing the five companies recruited came from within a radius of 30 miles around Batesville. They were loyal to the cause of the Union and were mainly refugees from their homes, who had been hiding in the mountains, swamps, and caves to escape conscription and dangers which encompassed them. The fact that they rendered faithful and efficient service is fully attested. The knowledge they possessed of every road and bypath in the surrounding country led largely to their employment as scouts and guides."

And, after commending the patriotism, services, and honorable character of the men of this regiment, he concludes his report to the Secretary of War in these words:

"Existing law, providing as it does only for their payment for the determined periods of their service, fails to provide an adequate measure of justice. The organi-

zation should, in my judgment, be fully recognized as having formed an integral part of the volunteer army, and a certificate of honorable discharge issued in the name of each soldier who did faithful service up to the date of disbandment, thus giving them a pensionable status."

Your committee heartily concur in this opinion of the Assistant Judge-Advocate-General and see no valid reason why the members of this regiment should not have every right to a pension that due muster and an honorable discharge give all other claimants, and therefore recommend the passage of the bill.

This bill failed of passage through the Senate, and the officers and men of the Fourth Regiment Arkansas Mounted Infantry have no pensionable rights under existing laws.

DELAWARE.

Delaware, it appears, enlisted in its service no home guards, militia, or state military organizations. The adjutant-general of that State reports that his office contains no records whatever of any such organizations, and that he is informed, upon inquiry among officers of Delaware regiments during the war, that no home guards, militia, or state military organizations existed in Delaware at that time. This is also borne out by correspondence early in the war between the governor of that State and the Secretary of War. On April 25, 1861, Governor Burton wrote Hon. Simon Cameron, Secretary of War, as follows:

[Rebellion Records, Series 111, vol. 1, p. 114.]

EXECUTIVE DEPARTMENT,
Dover, Del., April 25, 1861.

SIR: I have had the honor to receive your communication of the 15th instant, requesting me to cause to be immediately detached from the militia of this State one regiment, consisting of 780 men "to serve as infantrymen or riflemen for the period of three months unless sooner discharged."

The laws of this State confer upon the executive no authority whatever enabling him to comply with your requisition, there being no organized militia in the State nor any law authorizing such organization.

There are volunteer companies formed and their officers commissioned by the executive, and others are being formed, but it is altogether optional with them to offer their service to the United States authorities, the executive having no power vested in him to order them into its service.

I have the honor to be, sir, very respectfully, your obedient servant,

WILLIAM BURTON, *Governor.*

HON. SIMON CAMERON,
Secretary of War.

Delaware, however, had two volunteer regiments in the military service of the United States, the character of whose service for a time was akin to that of state militia. The Fifth and Sixth Delaware Regiments, the former numbering 912 officers and men and the latter 887, were organized and mustered into the United States service in October or November, 1862, for special duty in the State of Delaware, with the condition that the members thereof were to receive pay and recognition only for the time they were actually on duty. They were raised under the call of the President of July 2, 1862, and after their muster into service the officers and men returned to their homes and avocations to await a call for active service. This call was made during the emergency of 1863 by General Schenck, commanding the Eighth Army Corps. The active service of these regiments commenced during the latter part of June, 1863, and continued until their muster out in the latter part of August and first part of

September following, the average length of service of their members being between fifty and sixty days, for which period they received pay from the General Government. The service performed by these regiments in the summer of 1863 was that of guarding prisoners at Fort Delaware, Del., and guarding the railroad and canal north from Baltimore. This was the purpose for which they were called into active service.

The earliest mention of either of these regiments in the Official Records of the Union and Confederate Armies occurs June 19, 1863, when General Schenck telegraphed as follows:

[Rebellion Records, Series I, vol. 27, part 3, p. 221.]

BALTIMORE, *June 19, 1863.*

Is the Fifth Delaware Infantry now in your State, and can I call out four or five companies of the regiment for duty at Fort Delaware? We must have more guards for the large number of prisoners there. Please answer immediately.

ROBERT C. SCHENCK, *Major-General.*

Governor CANNON,
Dover, Del.

Later on the same day he telegraphed as follows:

[*Ibid.*]

BALTIMORE, *June 19, 1863—8 p. m.*

Governor Cannon informs me that the Fifth Regiment Delaware Infantry is subject to my order for the General Government. You will without delay call out, and send duly equipped for service, five companies of that regiment to Fort Delaware, to report for duty to Brigadier-General Schoepf, United States Volunteers, commanding that post. Report to me your compliance with this order.

ROBT. C. SCHENCK,
Major-General, Commanding Middle Department.

Col. H. S. McCOMB,
Wilmington, Del.

As regards the other five companies of the Fifth Delaware Infantry, the following appears:

[*Ibid.*, p. 252.]

BALTIMORE, MD., *June 21, 1863—1.30 p. m.*

You will have the other five companies of the Fifth Delaware sent as soon as possible to relieve two companies of the Fifth New York Artillery, guarding the railroad from Perryville to Baltimore. The train that brings on the Fifth Delaware can bring the Fifth New York here.

By order of Major-General Schenck:

DONN PIATT,
Lieutenant-Colonel, and Chief of Staff.

Maj. HENRY B. JUDD, U. S. Army,
Wilmington, Del.

Further information regarding the service of the Fifth Delaware Infantry, and also of the Sixth Delaware Infantry, is found in a letter addressed by Brig. Gen. Dan. Tyler to the chief of staff at department headquarters, of which the following is a copy:

[*Ibid.*, pp. 654, 655.]

HEADQUARTERS DELAWARE DEPARTMENT,
Wilmington, Del., July 11, 1863.

COLONEL: During the week I have inspected the troops at Fort Delaware, and those along the line of the Philadelphia and Wilmington Railroad to Bush River, and, to meet the necessity of the case, have ordered all the Fifth Delaware to Fort Delaware,

where they are most wanted for guard and other duty, and have distributed the Sixth Delaware along the line of railroad, leaving four companies at Havre de Grace, and the balance at Bush River, Gunpowder, Black River, and Perrymansville, giving ample protection to the railroad, and distributed the men in such a way as will give them convenient quarters without any additional expense.

* * * * *

With great respect, your obedient servant,

DAN. TYLER, *Brigadier-General.*

Col. DONN PIATT, *Chief of Staff.*

Prior to June, 1863, the service of the Fifth and Sixth Delaware Regiments was akin to the service of state militia, although it is to be remembered that they had been mustered into the service of the Federal Government and formed a part of its Volunteer Army. In respect of the service during the period from the fall of 1862 to June, 1863, of the Fifth Delaware Infantry, the following is taken from Senate Document 163, Fifty-eighth Congress, third session, and the same may be said to be applicable to the service during the same period of the Sixth Delaware Infantry:

That the officers and men of this regiment were put upon military footing and duty, and served faithfully as soldiers unremittingly from the date of their muster into the United States service, is shown by numerous affidavits on file, and by the petition presented and filed herewith, signed by 180 officers and men of the Fifth Delaware Volunteers.

They were the best and most loyal citizens of the State, and the fact that they were United States soldiers, uniformed and organized, drilling and performing duty as such in the city of Wilmington and in Newcastle County, ready for any emergency, deterred the large number of outspoken secessionists and southern sympathizers from open revolt and an effort to join Delaware to the Confederacy. The facts that the State was the highway over which all United States troops from the Northern and Eastern States must reach the seat of war and the defenses of Washington, and that the chief source of supply for powder was the Dupont Powder Works in that State, demonstrate that there was a cogent necessity for the presence of these loyal men—citizens of the State, but soldiers of the Union, able to suppress, by arm if need be, any demonstrations of hostility to the Union. And to that essential end they were ex necessitate rei more efficient than outside troops of the Union Army could have been. It also appears that the duties performed all the time while in the State were such military duties as, had this regiment been sent elsewhere, active regular troops would have been required to discharge them, thus weakening the Union lines at other points.

But the War Department seems to have regarded only their services without the State as "active service," so far as can be ascertained from the department's letter of March 22, 1904. From the date of muster in, in October and November, 1862, until June 19 and 21, 1863, although at Wilmington and in Newcastle County, they were drilling, standing guard, caring for government property, protecting the railroad and ferry between Havre de Grace and Perryville, guarding and protecting the powder works, and other duties of a strictly military nature, such as would necessarily require United States soldiers, thus releasing for the front other troops; the Government in this way secured the military services of the Fifth Delaware Volunteers without being compelled to feed them, and it seems, for lack of technical formalities, have thus far escaped payment for those home services, and, judging from the War Department's letter before you, will continue to ignore these services.

It does seem that the least Congress can do to right this wrong is to pass Senator Ball's bill, Senate No. 5100, now before this committee, and treat these border-state defenders of the Union as well as Congress has treated the same class of state militia or home guards in Missouri.

An extract from the petition signed by 180 survivors of the Fifth Delaware Volunteers is referred to as showing the character of service performed:

"That in October, A. D. 1862, the Fifth Regiment Delaware Volunteer Infantry were duly mustered into the Army of the United States by Maj. Henry B. Judd, of the United States Regular Army, to serve therein as United States soldiers for nine months, or during the war; and without any delay thereafter were duly clothed, armed, and equipped for immediate service in the United States Army as soldiers of the United States.

"At this time, in 1862, it was absolutely necessary for the United States Government to keep quite a large number of soldiers at Wilmington, Del., and in other parts of said State, and in the adjoining counties of the State of Maryland, for the reason that at that time there were a great many outspoken rebel sympathizers in said two States, through which the United States soldiers going south from the northern and eastern States to the national capital at Washington, D. C., had to pass to reach Washington, D. C., and a strong guard of the United States soldiers had to be kept under arms in Delaware and Maryland along the line of the Chesapeake and Delaware Canal, at Delaware City and St. Georges, in Delaware, and Chesapeake City, in Maryland, to prevent the rebel sympathizers in said sections from blowing up and destroying the locks of said canal at the places above mentioned, as said canal connected the waters of the Delaware and Chesapeake bays, a short route by water from the North to Baltimore and Washington.

"A strong detachment of United States soldiers was also required to be stationed on both sides of the Susquehanna River at Perryville and Havre de Grace, in Maryland, over which all troops going south to Baltimore and Washington by way of the Philadelphia, Wilmington and Baltimore Railroad had to be ferried across the Susquehanna River between Perryville and Havre de Grace on the large steamer *Maryland*; and the Fifth Delaware Regiment, in detachments, were required to guard the locks on the different parts of said canal, and to keep the rebels and rebel sympathizers (who were numerous in those localities) from blowing up the canal locks and to prevent vessels laden with troops and army supplies from reaching Washington by water; and also for troops to be stationed at Perryville and Havre de Grace, on both sides of the Susquehanna River, on the line of the Philadelphia, Wilmington and Baltimore Railroad, to prevent the rebels and their sympathizers from destroying the transport steamer *Maryland*, which then conveyed all railroad cars, containing troops, munitions of war, and passengers on its decks from Perryville to Havre de Grace, en route for Baltimore and Washington and points farther south.

"A portion of the Fifth Delaware Regiment was stationed at the points above mentioned to keep the steamer *Maryland* from being destroyed and to prevent armed rebels from crossing into Delaware as raiders. A strong guard of soldiers had to be kept on duty night and day at the large and very extensive powder works of E. I. Dupont & Co., on the Brandywine River, at or near the city of Wilmington, Del., to prevent the rebels from blowing up or otherwise destroying those large powder works, which were running every day and night to their utmost capacity to supply the United States Army with powder.

"Two of the companies of the Fifth Regiment were enlisted in the immediate vicinity of the powder works—Company B, commanded by Capt. Lamotte Dupont, and Company D, commanded by Capt. Hugh Stirling (one of the managers of the building department of the said E. I. Dupont & Co.). Said two companies, together with the other companies of the Fifth Regiment, were for some time stationed at Fort Delaware, in the Delaware Bay, guarding several thousand of captured rebel officers and privates who were then held as prisoners of war. A detachment of Company D of the Fifth Regiment, while stationed at Fort Delaware, was, by order of General Schenck, then commanding at said fort, under Lieut. James M. Peoples and First Sergt. Robert C. Fraim as officers, detailed to duty on board the U. S. S. *Daniel Webster* in charge of prisoner exchange from Fort Delaware to City Point on the James River.

"And they also, on board the said steamer, performed military duty on said steamer at Fortress Monroe and Norfolk, Va., and on the Atlantic Ocean. A detachment of Company B was also, by order of General Schenck, placed on the U. S. S. *Eagle* on prisoners exchange, and performed military duty thereon on the Atlantic Ocean and at City Point on the James River, in Virginia. For some cause unknown to your petitioners said regiment, after having served over nine months as United States soldiers in the States of Delaware, Maryland, and Virginia, and on the Atlantic Ocean, only received about seven weeks' pay for their nine months and a half service in the United States Army, and have never since their discharge at the expiration of their term of service, over nine months under arms, have received but seven weeks' pay for their services as United States soldiers in said Fifth Delaware Regiment, and up to the present the old and decrepit soldiers of said regiment and the widows of deceased soldiers have not been able to get placed upon the pension rolls at Washington, which is a great injustice, as the members of said regiment were clothed, equipped, and armed as soldiers of the United States, and faithfully performed their duties as such soldiers for the full term of their enlistment, from October, 1862, to August, 1863, at which time they were honorably discharged from military service by Henry B. Judd, then colonel in the United States Regular Army."

One can not peruse this statement of 180 officers and soldiers of the Fifth Delaware Volunteers without forming a judgment in his own mind that these services were

"military services" of the most important and valuable character, at a most critical time in a border State, when the public sentiment was almost evenly balanced, and efforts to take the State out of the Union were liable to take form at any moment.

One of said survivors of the Fifth Delaware Volunteers, in an affidavit and letter, states the case forcibly, as follows:

"It was made up of men who had their homes at stake, and no one can tell what the regiment saved the Government in protection of the powder works where the Government got its supply of powder. Then when Lee was marching toward Gettysburg, the 35,000 or 40,000 rebels in Fort Delaware began to talk about rising. We were sent there to guard them and the Chesapeake Canal from Delaware City to Baltimore. This canal the Government had to use to take its supplies through to Baltimore and Washington. The sympathizers threatened to cut the locks, and the Government could not go around outside and in by Norfolk to the Potomac River to get to Washington.

"Some may make light of the Fifth Delaware Regiment, but they were of more benefit than thousands of other soldiers who lay around cities and hotels pretending to be recruiting officers or on the sick list. There were thousands of such soldiers, and I am sure they are all getting pensions if living. But the Army of the Potomac would not have been any good without powder at Harpers Ferry or Antietam or Gettysburg. Then there is another thing: We were only paid for what time we were away from the State. We had to drill just the same, night or day, just the same as any other soldiers. At mustering out we were told by the paymaster he had only our act while out of State or in camp, and our other service would be an after consideration; that he could not deal with it."

Under the general pension law the members of the Fifth and Sixth Delaware Regiments have pensionable status for any disability incurred in line of duty during the period of their active service. They have no pensionable status under the act of June 27, 1890, as they are credited only with the period of their active service, the service for which they received pay, which was less than ninety days. This period of service, however, is counted in connection with any service rendered as officers or enlisted men in the military or naval service of the United States in some other organization, and if the total service is equal to ninety days they have pensionable status under the act of June 27, 1890.

Fifth and Sixth Delawares.

The letter from The Military Secretary of date March 22, 1904, states that it appears from the official records that there were about 1,924 officers and men enrolled in these two regiments. He estimates that on June 30, 1904, the survivors would not exceed 900 men, and, according to the mortuary tables of life insurance companies, there would now be in the neighborhood of 300 to 500 survivors. As practically none of these men were injured in the service, it is not probable that any general-law claims would arise, and the only pensions would be those allowed under the act of June 27, 1890, or February 6, 1907. It will therefore be seen that very few of the members of these regiments would receive pensions under the provisions of this act. The Military Secretary, by letter of March 17, 1906, transmits the official correspondence in connection with the raising of these two regiments, which summarized is:

On October 10, 1862, Maj. H. B. Judd, U. S. Army, was authorized by Thomas M. Vincent, assistant adjutant-general, to muster into the United States service 16 companies, raised by Col. Henry S. Macomb, and to designate them the "Fifth Delaware Volunteers." The extra companies were to be temporarily attached to this regiment. On

February 27, 1863, the Adjutant-General was notified by letter from Major Judd that this order had been complied with and that he had mustered into the service 10 companies of infantry, to be known as the "Fifth Delawares," and 10 additional companies which were temporarily attached to this regiment. On June 27, 1863, the governor of Delaware issued an order that the 10 additional companies attached to this regiment should be known as the "Sixth Delaware Volunteer Infantry."⁵ On July 8, 1863, Major Judd requested the Adjutant-General to approve the order of Governor Cannon and form these 10 additional companies into the Sixth Delaware. On July 10, 1863, Major Judd was notified by the Adjutant-General that these 10 companies had been mustered into the service as the Sixth Delaware Volunteer Infantry. From affidavits of 180 survivors of these two regiments, filed with your committee in the Fifty-eighth Congress, it appears that the officers of these regiments were commissioned the same as other officers in the United States Volunteer Army. They were issued clothing, arms, and equipments, but no subsistence, and it was understood that they were to serve within the boundaries of the State of Delaware. Immediately after their muster in they were allowed to return to their homes and engage in their usual pursuits of life, yet at the same time they were under the control of the United States officers. They were drilled daily by their own officers. Some companies were kept on duty day and night guarding powder works at Wilmington. Others, under direction of their officers, broke up meetings of secessionist sympathizers at various places.

Some time in June, 1863, both regiments were ordered out for service in protecting railroads and ferry near Havre de Grace and Perryville, guarding powder works, and guarding prisoners. A detachment of the Fifth Delaware was required to guard the locks in the various parts of the canal to prevent their being blown up. A portion of the regiment was required to protect the steamer *Maryland* from being destroyed and to prevent armed rebels from crossing the Delaware as raiders. Two companies were kept stationed day and night at the Dupont Powder Works. A detachment of Company D, Fifth Regiment, was detailed for duty on board the steamer *Daniel Webster* in charge of prisoner exchange, Fort Delaware. A detachment of Company B was also on duty on the steamer *Eagle*.

Affidavits of individual members are to the effect that at various times they were called out by their officers, not for any particular service, but to subdue demonstrations made by southern sympathizers, and the fact that these two regiments of armed and uniformed soldiers were always on hand to subdue any demonstration from the southern sympathizers in Delaware allowed the removal of other troops to the field of action.

On August 7, 1863, Major Judd telegraphed the Adjutant-General as follows:

Shall Fifth and Sixth Delaware be allowed pay for nine months or time actually served?

In reply he was advised by the Adjutant-General as follows:

Fifth and Sixth Regiments will be allowed for time actually on duty.

On August 15, 1863, Major Judd was notified by the Adjutant-General that no charge for clothing would be made against the Fifth

Delaware on their muster-out rolls. They were mustered in for nine months' service. They were mustered out at the expiration of the nine months, but received pay for only seven weeks' service.

In the case of *Wilson v. United States* (25 C. Cls. Repts., p. 339), in which one William Wilson, a member of the Fifth Delaware Regiment, brings action to recover pay for nine months' service less the seven weeks for which he had already received pay. The facts are stated as follows:

The Fifth Delaware was ordered to be mustered into the service of the United States on October 10, 1862. On November 6, 1862, this order was complied with and the troops were mustered in. No arrangements were made for housing or subsistence, and the troops returned to their homes. On August 7, 1863, they were mustered out of the service of the United States and paid for seven weeks' service. It is stated that at the time they were mustered out oral protest was made because they did not receive the full nine months' pay, and it is also stated that had a written protest been made the paying officer would not have paid any amount; therefore the soldiers took the seven weeks' pay under oral protest. None of these troops ever received any bounty or other emolument than the seven weeks' pay. In the case mentioned the Court of Claims found against Wilson largely on the fact of the statute of limitations, as Wilson's claim was not filed until twenty-three years after his service. In the opinion of the court the telegram of the Adjutant-General regarding the time for which they should receive pay might not of itself be regarded as an executive order, but the fact that the claimant accepted this amount and made no formal demand for more until twenty-three years afterwards was held by the court to be acquiescence of the order, and should therefore not be disturbed after such a lapse of time.

It also appears in this case that there was some misunderstanding as to the status of these troops until June 19, 1863, when Governor Cannon informed Major Judd that these troops were under the control of the War Department in the State of Delaware, and at that time they were immediately called out for active duty.

In connection with this it might be stated that at the time these regiments were raised the Delaware legislature enacted a law to pay its citizens a bounty for not enlisting in the Federal Army; also that to a large extent the people of the State were in sympathy with the confederacy and that while these troops were not held in camp as ordinary troops, yet the moral effect of the uniformed and armed regiment was sufficient to prevent any demonstrations or hostile acts by the confederate sympathizers, and, as before stated, the troops rendered service during the entire nine months that would have been required of federal troops.

A full report of all official communications between the War Department and officers of these regiments will be found in the adverse report made by Mr. Prince, from the Committee on Military Affairs of the House of Representatives, on the bill H. R. 8168, which provided for recognition of the military services of these regiments (H. Rept. No. 2562).

INDIANA.

The following reply to the letter of inquiry addressed to him regarding the Indiana State Militia during the war was received from Gen. John R. Ward, adjutant-general of Indiana:

ADJUTANT-GENERAL'S OFFICE,
STATE OF INDIANA,
October 9, 1905.

DEAR SIR: In reply to yours of September 5, in which you ask me to furnish a statement showing the facts concerning the Indiana Militia and Home Guard, the total number of organizations composing them and the number or approximate number in each organization, the laws and regulations under which they were organized, the nature of service engaged in, when and where the various commands were organized, when and where disbanded, whether each individual was furnished with form of discharge or release from the service, where the service of each organization was rendered, whether wholly in or out of the State, duration of period of service, the occasion and character thereof, and for how long any of them served under command or orders of United States officers or in connection with United States troops, and the average age of soldiers at the time of service, I have the honor to state that I agree with you that the preparation of a statement covering the above details will involve a great deal of labor if done by original research.

I have the honor to suggest that you examine the reports of the adjutant-general of Indiana for the period covering the civil war. From my examination of these reports I believe that the information you desire is therein covered. In any event, these reports contain all the information that can be furnished from the records of this office, and if additional information is desired it will necessitate research along other lines. If the information contained in the above reports is not satisfactory nor sufficient, I shall deem it my duty and pleasure to give your committee any assistance that lies in my power.

Very respectfully, yours,

JNO. R. WARD,
Adjutant-General of Indiana.

HON. PORTER J. MCCUMBER,
*Chairman Committee on Pensions, United States Senate,
Washington, D. C.*

The published report of the adjutant-general of the State of Indiana for the period covering the war shows that the Indiana militia was organized under an act of the legislature approved May 11, 1861, and was called the Indiana Legion. The law provided that the organization of the legion, complete, should be that of a single army corps with two divisions of nine brigades. This organization, embracing the whole State, was not, however, completed or maintained. In the central and northern parts of the State, where there was little or no danger of raids, the Indiana Legion was either not organized, or, if organized, was not maintained, and therefore amounted to nothing. Some of the northern and central companies of the legion turned out in the Morgan raid in July, 1863, but with this exception they performed little or no duty during the war. In the southern counties the case was different, and it was there that the active and energetic organizations of the militia were maintained. Kentucky, just across the Ohio River, was made free use of by the enemy during the whole war, and that State was a favorite recruiting rendezvous for the southern army. It was also infested with guerrilla parties and marauding bands, always intent and ready to pounce upon and plunder unprotected communities of Unionists, north or south. Hence the necessity for an active and efficient force of militia in Indiana along the whole river border.

The active Indiana Legion consisted of fourteen regiments, numbered from the first to the twelfth, inclusive, a regiment from Jennings County improperly numbered the ninth, and an unnumbered

regiment from Crawford County. The frequent disturbances and raids on the southern border of the State and the threatened invasions of guerillas required the legion to be frequently called out. They did guard duty for weeks at a time along the Ohio River, also at Camp Morton rebel prison at Indianapolis and took part in several expeditions into Kentucky for the protection of loyal citizens there, the Fourth Regiment being engaged in battle with the enemy at Panther Creek, Kentucky, September 20, 1862, where it had 3 killed and 35 wounded. The Indiana Legion also rendered important service at the time of the Morgan raid in July, 1863, the Sixth Regiment being engaged in battle at Corydon, Ind., with Morgan's forces. The following extract from Governor Morton's message to the Indiana legislature January 9, 1863, shows something of the service of the Indiana Legion:

To the officers and men of the Indiana Legion, the State chiefly owes the immunity she has enjoyed from invasion, plunder, and murder by the guerilla and marauding bands which infested many of the adjoining counties of Kentucky. Not only so, their aid and protection has been cheerfully extended to the loyal citizens of Kentucky when it has been called for. On several occasions they met the enemy in battle, when they ably maintained the credit of the State, and behaved with that distinguished courage which has characterized the soldiers of Indiana throughout this war. Some have fallen in battle, and I earnestly recommend that their families be provided for, and placed on a footing at least equal to the families of those who fall in the federal service. They also rendered prompt and efficient service in guarding rebel prisoners when the federal forces performing that duty were called into the field. Although the organization and operation of the legion have been chiefly confined to the counties bordering on the Ohio River, yet much has been done in some of the interior counties, and among them I would especially notice the counties of Jennings, Decatur, Shelby, Tippecanoe, Putnam, Parke, and Vigo. The response which was made from those counties, on sudden calls for military force, was of the most energetic and satisfactory character.

The Indiana Legion was also tendered the thanks of the people of the State by joint resolution of the legislature in March, 1865.

In the published report of the adjutant-general of the State of Indiana, under the title of "Indiana in the War," volume 1, page 242, it is stated that:

During the late war about 50,000 men, known as the "Indiana Legion," were armed, and from time to time were on active duty, under orders of the governor, in repelling rebel raids and guarding the southern border of the State, on the Ohio River, against rebel invasion.

In July, 1863, at the time of the raid of the confederate general, John H. Morgan, into Indiana, Governor Morton issued a call upon the citizens of Indiana to organize for defense, and within the short space of forty-eight hours 65,000 men had tendered their services. Of this force, thirteen regiments and one battalion were organized specially for this emergency and the regiments designated numerically from One hundred and second to One hundred and fourteenth, inclusive, the battalion being assigned to the One hundred and seventh Regiment. This force was denominated as "minute men," for the emergency, and many of its members belonged to the Indiana Legion. They were mustered in from July 9 to 13, 1863, and were mustered out from July 15 to 21, 1863. While their active service was very brief and comparatively unimportant, yet the moral support they rendered the Union forces who were in pursuit of Morgan was very great, and indeed it was due much to their efforts that Morgan's plans were baffled and his raid rendered futile. Some of

the Indiana minute men continued the pursuit of Morgan into Ohio; a few of the regiments, however, did not take the field. The aggregate of this force was nearly 10,000 men, rank and file.

The Indiana Legion and minute men have no pensionable status under existing laws.

KANSAS.

The following letter was received from Gen. J. W. F. Hughes, adjutant-general of the State of Kansas:

ADJUTANT-GENERAL'S OFFICE,
Topeka, Kans., September 22, 1905.

MY DEAR SIR: Replying to your letter of the 5th instant concerning information regarding militia or military organizations of the border States during the war of 1861-1865 not regularly mustered into the military service of the United States or accepted as forming a component part of its army, I beg to say that Kansas had twenty-four regiments of infantry and cavalry which were mustered as state militia scattered over periods of four years, and which were never a part of the volunteer force of the General Government. The most prominent we had was the Price raid organizations, made up of young men too young to go to the front and old men too old for service. This particular organization drove the rebel brigadier-general, Price, out of Kansas. We also had two batteries.

The conditions of the rolls as they exist in this office are very incomplete and what we have are in an exceedingly deplorable condition, and for that reason alone it will be almost impossible to get you the data required. In addition to this the information that you desire is so elaborate, exhaustive, and extensive that the present office force allotted this department by the State of Kansas is absolutely inadequate to get you the information requested.

I regret the situation, but I can not see how it is possible to get you the information desired in any decent length of time, if at all.

Very respectfully,

J. W. T. HUGHES,
Adjutant-General.

MR. D. KERR,
*Room 10, Senate Annex,
Washington, D. C.*

The published report of the adjutant-general of Kansas for the year 1864 shows that the militia organization of that State then embraced 24 regiments and 4 battalions, numbering in the aggregate about 15,000 men, rank and file. The regiments were numbered from the first to the twenty-fourth, inclusive, and the battalions were known as the Santa Fe Battalion, Allen County Battalion, Bourbon County Battalion, and Brown County Battalion.

The Kansas State Militia were called upon on many occasions to repel invasion or to guard the southern and eastern borders of the State, or to drive the enemy from its soil. In many localities, embracing several counties in extent, the militia were called upon to guard the settlements at night while pursuing their regular avocations by day, thus performing at the same time the duties both of the soldier and the citizen. It is stated that for weeks and months, and even for years, was this arduous double labor performed.

In the fall of 1864, at the time of the invasion of Missouri by General Sterling and his confederate army, the entire militia force of Kansas was called into active service. They were called out by the governor of Kansas by proclamation dated October 8, 1864, at the request of Maj. Gen. Samuel R. Curtis, then commanding the United States forces in Kansas, the purpose being to aid the Union troops in repelling the invasion of the confederate forces under General Price. They were then called for thirty days and they served in connection

with United States troops and under orders of officers of the United States. They took part in the battle of the Big Blue, October 22, 1864, and quite a number were killed or wounded or taken prisoners by the enemy. They rendered valuable and efficient service on this occasion, for which they were highly commended by the Union commanders.

Detachments of Kansas Militia were in active service for several months during the summer of 1864 along the southeastern, southern, and western borders, guarding those localities against bushwackers and Indians.

No complete roster of the Kansas Militia has ever been compiled, as appears from the following prefatory statement contained in the reprint of the report of the adjutant-general of Kansas covering the period of the war:

ADJUTANT-GENERAL'S OFFICE,
Topeka, Kans., November 10, 1896.

It is to be regretted that the time is not sufficient to compile a volume recording the names and history of the members of the militia regiments who did such gallant service along the border during the dark days of the war. It is a duty that the State owes to her brave defenders, and it is to be hoped will be performed before time and fast-decaying records render it impossible.

S. M. Fox, *Adjutant-General.*

The Kansas Militia not having been mustered into the military service of the United States, the members thereof have no pensionable status under existing laws.

Kansas had two regiments mustered into the military service of the United States after the war, for the suppression of Indian hostilities of which it is proper to make mention. These were the Eighteenth and Nineteenth regiments of Kansas Volunteer Cavalry. They have a pensionable status under the general law for disabilities incurred in the service and line of duty, but they have no pensionable rights under the act of June 27, 1890, as their service was rendered some two or three years after the close of the war of the rebellion. A bill (H. R. 8631) to extend the provisions of the act of June 27, 1890, to the members of these regiments was favorably reported from the House Committee on Pensions during the third session of the Fifty-third Congress, the report which contains all the facts regarding the organization and service of these regiments being as follows:

A report from the officer in charge of the Record and Pension Office, War Department, shows that a battalion of the Eighteenth Kansas Cavalry Volunteers organized under a circular of June 21, 1867, from headquarters Military Division of Missouri, was mustered into the military service of the United States from July 13 to 15, 1867, at Fort Harker, Kans., to serve for a period of four months, and that it was mustered out of service at the same place November 15, 1867.

It also appears from the records that the Nineteenth Regiment Kansas Cavalry Volunteers, organized under authority contained in a telegram from the Secretary of War to Lieutenant-General Sherman, dated October 6, 1868, was mustered into the United States service by companies from October 20 to 29, 1868, at Topeka, Kans., to serve for a period of six months, and that the regiment was mustered out of service April 18, 1869, at Fort Hays, Kans.

The official report shows that these organizations were called out to aid in the suppression of Indian hostilities, and the records further show that the battalion of the Eighteenth Kansas Cavalry, above referred to, and the Nineteenth Regiment of Kansas Cavalry are the only two volunteer organizations mustered into the military service of the United States since the war of the rebellion.

At the time the Eighteenth Kansas was mustered in at Fort Hooker a severe epidemic of cholera prevailed at that place, and it is shown by the records of the War Department that 20 deaths occurred in the battalion from that disease.

On the 21st and 22d of August, 1867, Companies B and C of this battalion were in an engagement with the Cheyenne Indians on Prairie Dog Creek, in Kansas, with a loss of 14 officers and men killed and wounded, and Major Armes, of the Tenth United States Cavalry, commends in the highest terms the officers and men of the Eighteenth who took part in this engagement in saving the State of Kansas from further depredations from the Indians.

In his report the governor of Kansas says:

"On the 30th of August Major Moore, with the Eighteenth Kansas, struck a portion of the Indians who had engaged Major Armes on the 21st and 22d, and after an engagement of several hours gained a decisive victory. About the same time Major Elliott, with a detachment of the Seventh United States Cavalry, attacked another band and drove them in a westerly direction toward the headwaters of the Republican. After these several engagements the Indians retired to their winter haunts and left the frontier settlements of Kansas comparatively at peace."

In General Sheridan's report, dated Chicago, Ill., November 1, 1869, speaking of the depredations of the Indians on the plains during the previous summer and winter, he says:

"So boldly had this system of murder and robbery been carried on, that not less than 800 people had been murdered since June, 1862—men, women, and children."

It had been the custom of the Indians to raid the frontier settlements during the summer, and then seek security by retiring into the mountains during the winter. General Sheridan continues:

"To disabuse the minds of the savages of their confident security, and to strike them at the period when they were the most, if not entirely, helpless, became a necessity, and the general in chief then in command of this division authorized a winter campaign."

The Nineteenth Kansas Cavalry was mustered into the United States service in the last days of October for the purpose of prosecuting the campaign at this season of the year. On the 5th of November the regiment moved from Topeka, Kans., and, crossing the Arkansas River at Wichita, moved in a southwest direction to join the Seventh United States Cavalry, near the junction of Beaver Creek with the North Canadian, 112 miles south of Fort Dodge, at a cantonment called Camp Supply.

On the march the command was caught in a severe snowstorm, and, becoming entangled in the canyons of the Cimarron, did not reach Camp Supply until the 30th of November. Of this incident in the history of the regiment General Sheridan says:

"The regiment lost its way, and, becoming entangled up in the canyons of the Cimarron and in the deep snow, it could not make its way out and was in a bad fix. * * * It had been subsisting on buffalo for eight or nine days. * * * Officers and men behaved admirably in the trying condition in which they were placed, but the poor horses suffered greatly, and a number of them were lost."

Of the march down the Washita General Sheridan says:

"The snow was still on the ground and the weather very cold, but the officers and men were very cheerful, although the men had only shelter tents. We moved due south until we struck the Washita, near Custer's fight of November 27, having crossed the main Canadian, with the thermometer about 18° below zero. On the next day we started down the Washita, following the Indian trail; but finding so many deep ravines and canyons I thought we would move out on the divide, but a blinding snowstorm coming on, and fearing to get lost with a large command and trains of wagons on a treeless prairie without water, we were forced back to the banks of the Washita, where we at least could get wood and water. * * *

"This was continued until the evening of the 16th of December, when we came to the vicinity of the Indians, principally Kiowas. They did not dream that any soldiers could operate in such cold and inclement weather, and we marched down on them before they knew of our presence in the country."

The result of this campaign was that Santanta and Lone Wolf, chiefs of the Kiowas, were taken prisoners, and by a threat of execution that tribe was forced to report at Fort Cobb, together with the Comanches and Apaches, and finally induced to go on their reservation.

From Fort Cobb the command marched to the base of the Washita Mountains and established Fort Sill, near Medicine Bluff. On the 2d of March following the Nineteenth Kansas Cavalry and the Seventh United States Cavalry, under the command of General Custer, went in pursuit of the Cheyennes. The course pursued was via Camp Radiminski, mouth of Elk Creek, to a point on North Fork of Red River, a few miles above the mouth of Salt Fork.

The Cheyenne trail was struck on Salt Fork on the 6th of March, 1869, and followed to the north along the eastern edge of the Llano Estacado until the 20th of March, when the Cheyennes were caught camped on Sweetwater Creek, about 10 miles west of the

eastern line of Texas. This march was made practically without transportation or adequate supplies, and for the last few days the men subsisted on mule meat without bread or salt.

In General Custer's official report of this campaign he uses the following language: "The point at which we found the Cheyenne village was in Texas, on the Sweet-water, about 10 miles west of the state line. Before closing my report I desire to call the attention of the major-general commanding to the unvarying good conduct of this command since it undertook the march. We started with all the rations and forage that could be obtained, neither sufficient for the time for which we have already been out. First, it became necessary to reduce the amount of rations; afterwards a still greater reduction was necessary, and to-night most of my men made their suppers from the flesh of mules that have died on the march to-day from starvation. When called upon to move in light marching order, they abandoned tents and blankets without a murmur, although much of the march has been made during the severest winter weather I have experienced in this latitude.

"The horses and mules of this command have subsisted day after day upon nothing but green cottonwood bark. During all these privations the officers and men maintained a most cheerful spirit, and I know not which I admire most, their gallantry in battle or the patient but unwavering persistence and energy with which they have withstood the many disagreeable ordeals of this campaign.

"As the term of service of the Nineteenth Kansas Cavalry is approaching its termination, and I may not again have the satisfaction of commanding them during active operations, I desire to commend them—officers and men—to the favorable notice of the Commanding-General. Serving on foot, they have marched in a manner and at a rate that would put some of the regular regiments of infantry to the blush. Instead of crying out for empty wagons to transport them, each morning every man marched with his troop, and—what might be taken as an example by some of the line officers of the regular infantry—company officers marched regularly on foot at the head of their respective companies; and now, when approaching the termination of a march of over 300 miles, on greatly deficient rations, I have yet to see the first straggler.

"In obtaining the release of the captive white women, and that, too, without ransom or the loss of a single man, the men of my command, and particularly those of the Nineteenth Kansas, who were called into service owing to the murders and depredations of which the capture of these women formed a part, feel more fully repaid for the hardships they have endured than if they had survived an overwhelming victory over the Indians."

Your committee is further advised by Hon. H. L. Moore, Member of Congress, who was the major commanding the Eighteenth Kansas during the whole term of its service, that this battalion, as well as the Nineteenth Kansas, was composed largely of men whose homes had been devastated and families murdered by the Indians during their raids on the frontier settlements. The Eighteenth suffered a loss of some 10 per cent from cholera and the casualties of battle. Its service was constant and arduous during the whole term of its enlistment.

The Nineteenth Kansas, of which Mr. Moore was lieutenant-colonel, and which he commanded during the latter half of its term of service, prosecuted this campaign during the most inclement weather, and, as the official report shows, much of the time without adequate food or camp equipage. The result of the campaign was to clear the plains of the Indians of the Southwest by forcing them onto their reservations, where they have remained ever since.

Upon full and careful consideration of this bill your committee are unanimously agreed that it is one of exceptional merit. The service rendered by these two organizations was of a very exceptional character, and the results of the same have been widespread and beneficent.

No dangerous precedent will be established by the enactment of this bill into law, as it will be remembered these are the only volunteer organizations which have been mustered into the United States service since the civil war.

The bill is therefore returned with the recommendation that it do pass.

This bill failed of passage.

KENTUCKY.

The following report, made in the second session of the Fifty-second Congress from the House Committee on Invalid Pensions on bill (H. R. 7554) to grant a pension to survivors of certain battalions of Kentucky Militia, etc., contains much information regarding a number of Ken-

tucky state troops that were in service during the war and the orders and state laws under which they were raised:

The Committee on Invalid Pensions have considered the bill (H. R. 7554) granting a pension to survivors of certain battalions of Kentucky Militia, etc., and submit the following report, recommending the passage of the accompanying substitute for the bill under consideration.

The object of the bill, as introduced, is to place those who served in the organizations named under the provisions of the act of June 27, 1890, which requires a service of ninety days and a present disability, not due to vicious habits.

In considering the bill these questions arise:

- (1) Under what authority were the said organizations raised and paid?
- (2) Were they subject to the orders of United States officers, and what was the character of the service performed?

On these points the following facts and arguments have been presented to the committee:

The Frankfort, Paducah, and Sandy Valley battalions, which were known as the Capital Guard Regiment, were intended to aid and assist the federal troops, and were to be held subject to the call of the district commander for any service in Kentucky, and they were raised by order of the governor of Kentucky, under sanction of an order dated July 11, 1864, and signed by Edwin M. Stanton, Secretary of War.

The North Cumberland, Three Forks, Halls Gap, Green River, Middle Green River, South Cumberland, and Frankfort battalions, and First Kentucky State Cavalry and Frankfort Battalion were raised under an act of the Kentucky legislature approved January 26, 1864, entitled "An act empowering the governor to raise a force for the defense of the State."

The Harlem County Battalion was raised under the militia laws of the State, and was mustered into the state service October 13, 1862, and was mustered out January 13, 1863. It comprised 7 companies, of 494 men, and performed service in eastern Kentucky, along the Tennessee and Virginia borders, affording protection to the loyal people of that section and preventing the destruction of property by the evil inclined and at the same time acting as an advance guard for the federal troops.

The Casey County State Guards, and Captain Bussey's Bath County Rangers were organized under the militia laws of Kentucky, and, being ordered on duty, the former was assigned to and performed duty with the First Kentucky Cavalry, whilst the latter, after having performed service from December 11, 1863, to April 1, 1864, was assigned to and performed duty with the Capital Guard Regiment, and was then known as Company F, of the Frankfort Battalion of that regiment, and was mustered out February 6, 1865.

It may be proper to state that the Halls Gap Battalion also included the Mercer County State Guards, which organization was raised under the militia laws of the State, and that the Frankfort Battalion was a distinct organization from that of the same name raised under the order of Secretary Stanton, heretofore referred to.

It appears from the records in the Third Auditor's Office that the State of Kentucky made a claim against the United States on account of expenses incurred in behalf of the organizations mentioned in the bill and was reimbursed therefor, and that the United States reimbursed Kentucky, on account of expenses incurred in raising volunteers, to the amount of \$3,504,466.77, being a greater amount than was paid to any other State, except the States of Missouri, New York, and Illinois.

The said organizations performed the same character of service in the State of Kentucky as was required of United States troops. They were in the service not less than ninety days, some for six months, others for about one year. They rendered valuable and efficient service to the State and General Government, and cooperated with the forces of the United States, and were subject to the orders of United States officers for services to be performed within the State.

Hon. John M. Palmer, now United States Senator from Illinois, and formerly department commander of Kentucky, under date of January 21, 1893, says:

"The Kentucky State troops, as a rule, were under my command in the department of Kentucky, and I treated them as troops subject to my command. Some of the organizations performed valuable services, and ought to be provided for by the pension laws."

Gen. Green Clay Smith appeared before the committee and stated that at times during the war he commanded federal troops in Kentucky; that he was then a resident of the State, and a native thereof, and well acquainted with the conditions prevailing therein at that time, and he had no doubt whatever that the organizations mentioned in the bill were at all times subject to the orders of the department commander, and rendered important service in behalf of the United States in protecting and guarding its property, its lines of communication, and aiding in driving its enemies from loyal territory.

Kentucky furnished three classes of troops in behalf of the General Government during the late war—those that were mustered into the United States service, those that were known as the state militia proper and which did not perform service for ninety days, and those mentioned in this bill.

A table is appended hereto showing the number and when mustered in in each organization mentioned in the bill, the whole number being 4,983, and the number mustered out being about 4,200. But as many of these performed military service in other organizations, which service placed them within the provisions of the pension laws, it is thought that not more than 2,500 would be placed under the provisions of this bill, as originally presented, should it become a law.

Having directly sanctioned the organization of some of these troops, and having accepted the services of all of them, they having been subject to the orders of the commander of the Department of Kentucky, and having reimbursed Kentucky for all expenses incurred in their organization and maintenance, it seems that the General Government, so far as its military, executive, and ministerial officials had power so to do, have regarded the organizations mentioned in the bill as if they had been mustered into the United States service for all practical purposes. And that being true, it would be fair dealing to place them, as far as this bill can do so, upon an equal footing with the same class of troops furnished by the States of Missouri and Pennsylvania, which have been placed under the provisions of the pension laws.

Following is the table above referred to, compiled from the report of the adjutant-general of Kentucky:

	Mustered in at organiza- tion.	Mustered out.
Frankfort Battalion.....	675	527
Paducah Battalion.....	421	305
Sandy Valley Battalion.....	293	244
North Cumberland Battalion.....	270	209
Three Forks Battalion.....	752	583
Halls Gap Battalion.....	354	331
Mercer County Guards.....	98	79
Green River Battalion.....	292	264
Middle Green River Battalion.....	303	273
South Cumberland Battalion.....	449	415
First Kentucky State Cavalry.....	368	330
Casey County State Guards.....	103	103
Frankfort Battalion.....	100	67
Total.....	4,478	3,730
Field and staff.....	11	7
Total.....	4,489	3,737
Harlan County Battalion.....	494	(a)
Total.....	4,983	

a Not shown in adjutant-general's report.

In view of the facts shown, your committee have been unwilling to recommend the passage of the bill as presented, for the reason that to do so would be to assume to determine that the organizations named were essentially in the service of the United States during the entire period of their service. It does seem proper, however, that these troops should be placed in a position as good as, but no better than, that given to the Missouri State Militia, and your committee therefore report the accompanying bill as a substitute for the bill H. R. 7554, and respectfully recommend that the substitute do pass.

This bill failed of passage and no pensionable rights accrue on account of service in these organizations. The period of service of these troops was generally about six months, though a few of them served about one year. The earliest period of service was from the first part of 1864. The following is taken from the published report of the adjutant-general of the State of Kentucky, dated September 1, 1867, volume 2, pages 825, 826, as showing something of the service of these organizations:

All these troops did valuable and efficient service to the State and the General Government, as the history of the time would fully show. The Sandy Valley Battalion

rendered most important service during the Saltville raid. The Frankfort Battalion protected the capital from the frequent incursions of guerrilla forces. The Paducah Battalion protected the southwestern portion of the State. Shortly after the muster-out of this battalion, the gallant Capt. Thomas J. Gregory, Company A, was killed in action while leading a charge against a guerrilla force.

The troops raised under the act of January 26, 1864, were enlisted subsequent to the muster out of the Capital Guard Regiment and were located as follows:

The Three Forks Battalion in the extreme southwestern portion of the State, with headquarters at Booneville.

The Halls Gap Battalion in the locality between Stanford and Halls Gap; headquarters at Stanford.

The Green River Battalion in the counties between the Ohio and Green rivers, with headquarters at Calhoun.

The Middle Green River Battalion in the southern portion of the State, with headquarters at Rochester.

The South Cumberland Battalion also in the Southern portion of the State, with headquarters at Burksville.

The First Kentucky Cavalry in the central part of the State, with headquarters at Lebanon.

The Frankfort Battalion was assigned to duty in guarding the Louisville and Lexington railroad and the country adjacent thereto.

All of these battalions performed the most valuable service against the rebels and guerrillas under Morgan, Johnson, South, Lyon, Mundy, Gentry, Jesse, etc., and for some time freed the State from the incursions of these troops (the acts of many of whom were barbarous in the extreme). This was accomplished notwithstanding their efficiency was somewhat crippled, first, by the then military commander of the district of Kentucky, and second, by partisan feeling and prejudice.

This report does not give any particulars of service rendered by these forces under command of United States officers, or in connection with United States troops. It shows, however, that 66 of them died and 27 were killed, some of these being killed in action.

Kentucky had another body of state militia, state guards, and home guards that were on active duty at various periods during the war. The published report of the adjutant-general of the State of Kentucky, volume 2, page 903, shows the designations and strength of the organizations composing this force to have been as follows:

Home guard companies called out by Generals Anderson and Sherman.....	1, 534
Police guard Kentucky Central Railroad.....	1, 470
Oldham County State Guard.....	63
Shelby County State Guard.....	35
Spencer County State Guard.....	56
Nelson County State Guard.....	49
Flower Creek Home Guard.....	33
Martin's company, Home Guard.....	57
Ohio County Home Guard.....	155
Leonard's company, Home Guard.....	60
Forty-first Regiment Kentucky Enrolled Militia.....	1, 096
Forty-second Regiment Kentucky Enrolled Militia.....	1, 393
Frankfort Union Guards.....	57
Rockcastle and Lincoln County Home Guard.....	304
Twenty-second Regiment Kentucky Enrolled Militia.....	112
Sixty-eighth Regiment Kentucky Enrolled Militia.....	615
Sixty-fifth Regiment Kentucky Enrolled Militia.....	347
Thirty-sixth Regiment Kentucky Enrolled Militia.....	280
Peak's Mill Rangers.....	51
Fleming County State Guard.....	102
Hardin County State Guard.....	42
Capt. R. R. Bacon's company, State Guard.....	26
Capt. Greenbery Reid's company, Kentucky National Legion.....	84
Capt. H. H. Johnson's company, Kentucky National Legion.....	87
Lieut. George W. Burchett's company, Kentucky National Legion.....	14
Total.....	8, 122

These militia and home guards served short terms at various intervals during the war beginning in the fall of 1861; some of them were in service as late as in November, 1865. A great many of them served less than twenty days, some served one and two months, and but very few, if any, were in service three months. Their principal duty was the guarding of railroads, bridges, locks, etc. The Forty-first and Forty-second Regiments Kentucky Enrolled Militia were thirty-day men, called out at the time of Bragg's invasion. The Sixty-eighth Regiment Kentucky Enrolled Militia, thirty days' service, is recognized by the War Department as having been accepted into the military service of the United States and the members thereof have pensionable status under the general law. They have no status under the act of June 27, 1890, as their service was less than ninety days. None of the other Kentucky state organizations has pensionable rights under existing laws.

Whether any of these troops served out of the limits of Kentucky is not known, but it is not probable that they did; neither is it reported that any of them served under the command of United States officers, or in connection with United States troops, except that the report of the adjutant-general of Kentucky mentions that 1,534 of the home guards of that State were called out by Generals Anderson and Sherman. The home guards, so called, were on active duty in the fall of 1861, a few serving a little over one month, but the majority less than fifteen days. The Thurston Guards, called out by General Anderson, served twelve days in September, 1862.

MARYLAND.

The adjutant-general of Maryland, replying to a letter of inquiry relative to Maryland Militia, home guards, etc., reports that the records of his office are now inaccessible because of extensive alterations which are being made in the state house at Annapolis, a work which will not be completed for some time. He further states, however, that in 1898 there was prepared from those records and published under the authority of the general assembly of Maryland by a state commission a complete History and Roster of Maryland Volunteers, War of 1861-1865.

Maryland was one of the slave-holding States, and because of the very strong southern feeling which possessed many of her citizens at the outbreak of the war her militia became disorganized and a considerable number of its members entered the confederate service. An examination of the History and Roster of Maryland Volunteers, War of 1861-1865, above mentioned, shows that Maryland had no state militia or state military organizations in service during the war, though she raised at times emergency troops when her soil was invaded by the enemy, but these troops were mustered into the military service of the United States. These emergency troops were raised in 1863 and 1864.

The Ninth and Tenth Regiments of Infantry, Maryland Volunteers, were organized in July, 1863, to serve six months; they were really emergency men to aid in repelling the invasion of Maryland and Pennsylvania by General Lee's confederate army of northern Virginia. Both regiments rendered good service, and the Ninth Regi-

ment was surrounded and captured by an overwhelming force of the enemy after a gallant defense at Charlestown, Va., October 18, 1863.

The Eleventh Regiment of Infantry, Maryland Volunteers, was organized June 16, 1864, to serve one hundred days as emergency men to repel the invasion of the State by General Early's army and participated in the battle of Monocacy, Md., July 9, 1864, a battle made necessary against odds, in order to save the capital at Washington from capture.

The Twelfth Regiment of Infantry, Maryland Volunteers, was organized July 30, 1864, as another emergency regiment for one hundred days and was assigned to guard duty to enable veteran regiments to proceed to the front.

The Second Regiment of Cavalry, Maryland Volunteers, was organized from July 1, 1863, to August 19, 1863, for six months as an emergency regiment, and for special service in southern Maryland.

Batteries A and B (Second) Maryland Light Artillery, were organized in July, 1863, to serve six months, and were assigned to garrison duty in the fortifications for the defenses of Baltimore, Md.

All of these troops were mustered into the military service of the United States and formed a part of its military establishment, and their pensionable rights under existing laws are fully recognized.

MISSOURI.

A complete statement of the various classes of Missouri volunteers, militia, and home guards that were in service during the war, and the laws, orders, and regulations under which they were raised, was prepared by General Ainsworth in the summer of 1902, and is contained in Senate Document 412, Fifty-seventh Congress, first session, which is too voluminous to be reprinted here. A summarized statement showing the Missouri troops that were in service during the war is contained in Senate Document 163, Fifty-eighth Congress, third session, as follows:

Three months' militia, 1861.—The officers and men of these organizations were held by the War Department, in 1897, to have been State militia called into service of the United States by the President, and entitled to full volunteer and pension status. (R. and P. Div. Decisions No. 450, 639. See S. Doc. 412, p. 11, 57th Cong., 1st sess.)

Six months' militia.—These were strictly State home-guard forces, organized and employed for the protection of the lives and property of the citizens of Missouri. They were paid by the State, but afterwards the State was reimbursed by an act of Congress approved April 17, 1866. (14 Stat. L., 38, 39.)

They have never been recognized by the War Department as having any volunteer army status, nor by the Pension Department as having any pensionable status, nor has any act of Congress given them such, except the limited provisions of paragraph 3, section 4693, Revised Statutes.

Missouri state militia.—This was a peculiar force, entirely separate and apart from all other militia organizations of the State. Its province was to cooperate with United States troops "in repelling the invasion of the State and suppressing rebellion therein." Gen. J. M. Schofield, U. S. Volunteers, was assigned to the command of these forces November 27, 1861. By the act of February 13, 1862 (12 Stat. L., 339), it was provided "that no volunteers or militia from any State or Territory shall be mustered into the service of the United States on any terms or conditions confining their service to the limits of said State or Territory, beyond the number of 10,000 in the State of Missouri and 4,500 in the State of Maryland, heretofore authorized by the President of the United States or Secretary of War to be raised in said States."

In Missouri the aforesaid limit was reached on April 1, 1862, and the force, which had reached a numerical strength of over 13,000, was slowly reduced to the limit. This reduction gave rise to a long controversy between the State and Federal Govern-

ment, which resulted in their recognition, for purposes of veteran bounty at least, as United States troops, and by the act of July 13, 1868 (15 Stat. L., 256), these and the other state troops therein mentioned were placed on an equal footing with volunteers as to bounties of all kinds.

These troops were given a pensionable status under the general laws by the act of Congress approved March 3, 1873 (17 Stat. L., 569, 570). (See p. 45, Senate Doc. 412, 57th Cong., 1st sess.)

They were also given the benefits of the act of June 27, 1890, by the act of Congress approved February 15, 1895 (28 Stat. L., 970), above quoted.

Attention is called to the following excerpt from the aforesaid Senate document 412:

"In considering the status of the Missouri State Militia it is to be borne in mind that in the order of the War Department (General Orders, No. 96, of 1861) authorizing their employment they are referred to as 'a force of state militia' organized 'to cooperate with the troops in the service of the United States' in a limited field of service; that they were mustered into the service of the State of Missouri by state officers; that the oath administered to them at the time of muster in was that they should 'honestly and faithfully serve the State of Missouri;' that the President and the War Department conceded to the governor of the State the right to accept resignations and remove officers; that it was determined by the Secretary of War, concurring in the opinion of the Solicitor of the War Department, that they were 'militia of the State of Missouri and not a part of the regular or volunteer forces of the United States,' and, therefore, not entitled to the service bounty, and that special legislation by Congress was necessary to give to the members of the force the bounties and pensions payable to volunteers in the military service of the United States.

"But it is also to be considered that the act of February 13, 1862, by implication, recognized the Missouri State Militia as being then in the military service of the United States; that until December, 1862, when the President recognized the authority of the governor to remove officers, it was uniformly held by the War Department that this militia force was in the United States service; that the War Department authorized the enlistment of members of the force as veteran volunteers, a privilege generally extended only to those who had served the United States; that after the ruling of 1864 that the Missouri State Militia was not a part of the regular or volunteer forces of the United States the War Department exercised the authority to determine when their service should terminate, and directed that they should be mustered out under the same regulations that were applied to the 'muster out and discharge of other troops from the service of the United States.'

"And in this connection it is to be stated that on January 30, 1865, the Provost-Marshal-General, in a letter authorizing the governor of Missouri to organize additional regiments for the volunteer service, excluded from enlistment in the new regiments members of the 'Missouri State Militia or other troops already in the service of the United States;' that the Missouri State Militia were, in fact, mustered out of service by United States officers, and that their muster-out rolls report them as having been mustered out of the United States service; that the rolls of the several organizations were received and filed in the War Department like those of volunteers in the United States service; that these rolls were always reported from by the Adjutant-General's Office to the accounting officers of the Government precisely in the form and manner observed in the preparation of reports from the rolls of troops regularly mustered into the United States military service; that the remuster and desertion laws applicable to officers and enlisted men in the military service of the United States and the act providing for the furnishing of certificates in lieu of lost discharges were applied to the Missouri State Militia precisely as if that force had been regularly in the military service of the United States, and, finally, that the practice of the Adjutant-General's Office with respect to these troops has been continued by the Record and Pension Office, its propriety not having been called in question.

"It is evident from the foregoing that the peculiar military force known as the Missouri State Militia was not technically in the military service of the United States; and the practice inaugurated in the Adjutant-General's Office of treating it as a volunteer force in that service is doubtless open to criticism, but it is to be stated that the reports furnished from the rolls contained the information required in the adjudication of claims arising under the special legislation providing for the payment of bounties and pensions, and that the application of the remuster and other laws applicable to the volunteer forces has an equitable if not a strictly legal foundation. However, regardless of the propriety of the action of the War Department with regard to this force, it would seem that it is now, after the lapse of more than a third of a century, too late to change the existing practice, and the Missouri State Militia has therefore been scheduled in this paper among the troops recognized as having been in the military service of the United States.

"As already stated in this paper, the Missouri State Militia, which originally aggregated 13,000 men, was reduced by special authority of Congress to a maximum of 10,000. The force as originally organized included 14 regiments, 3 battalions, and 1 independent company of cavalry, 2 batteries of light artillery, 1 regiment of infantry, and 1 company of sappers and miners."

Enrolled Missouri Militia.—This was a peculiar state force, organized out of the state militia for the purpose of putting down marauders and defending the peaceable citizens of the State. No special legislation by Congress has been enacted for their benefit. On September 28, 1878, Attorney-General held that this force did not constitute a part of the army of the United States, but were a force acting from time to time in cooperation with it. (16 Op. Attorney-General, 148.)

Provisional Enrolled Missouri Militia.—These troops, sixty-two companies, were taken from or out of the Enrolled Missouri Militia, *supra*, and were organized for local and temporary service in their respective counties for protection against guerrillas and armed and paid by the State. They were not parts of the army of the United States. The Secretary of the Interior has decided that they are not included in the provisions of section 4722, Revised Statutes, referred to, *supra*, nor of the act of Congress of February 15, 1895 (28 Stat. L., 970), and differentiated by him from the "Provisional Missouri Militia." (8 Dec. Secretary of Interior, Pensions and Bounty, 518, 530, set out above.)

Missouri Militia, 1865.—These were troops who were organized by order of Gen. G. M. Dodge, January 7, 1865, under authority of the Government of the United States, in anticipation of the disbandment of the Enrolled Missouri Militia, and served under general officers of the United States until relieved in June and July, 1865.

"They were generally engaged in guarding posts and lines of communication, doing escort duty, and hunting guerrillas and bushwhackers." They are, according to the same authority, "deserving of the thanks of all well-disposed and loyal citizens for their prompt suppression of lawlessness which had been so fearfully prevalent throughout the State."

The status of these troops was that of Militia of the State of Missouri, which, though serving under United States officers, was not accepted into the military service of the United States. The State was reimbursed under the act of April 17, 1866 (14 Stat. L., p. 38), for the expenses incurred in their organization and service.

The adjutant-general of the State reports that fifty-eight companies were "placed in the field," but upon investigation sixty-one companies have been identified as having had an organized existence under the provisions of State General Orders, No. 3 "and the extensions thereof."

They have not, up to this time, been included in any special or general law extending the benefits of bounty or pension laws to Missouri Militia.

United States Reserve Corps, Missouri Volunteers.—This force, consisting of five regiments of infantry and one company of cavalry, was completed within a few days and was mustered into the military service of the United States to serve three months. The company and regimental officers were elected and were mustered into service without commissions. Capt. T. W. Sweeny, Second U. S. Infantry, was elected brigadier-general, and on May 20, 1861, was assigned to the command of the brigade in an order of which the following is a copy:

[Book No. 87, Departments of the West and Western, p. 296.]

SPECIAL ORDERS, }	HEADQUARTERS DEPARTMENT OF THE WEST,
No. 62. }	St. Louis, Mo., May 20, 1861.

Capt. T. W. Sweeny, Second Infantry, is assigned to the command of the United States Reserve Corps raised in the city of St. Louis, to which corps the company of recruits now under the charge of Captain Sweeny is attached for guard duty.

By order of Brigadier-General Harney.

S. WILLIAMS, *Assistant Adjutant-General.*

The United States Reserve Corps, including the brigadier-general and staff, was mustered into the United States service as militia under the President's call of April 15, 1861, and was credited by the War Department to the State of Missouri under that call. In 1897 the question as to the status of these troops being under consideration, it was decided by the Assistant Secretary of War that they, including the officers of all grades, must be considered to have been state militia called into the service of the United States by the President, and that the officers are entitled to the same recognition that they would have been entitled to receive if they had been appointed and commissioned by the governor of the State. (R. and P., 450639.)

United States Reserve Corps, three years' service.—This corps consisted of 1 battalion of cavalry, 1 regiment of artillery, and 10 regiments, 3 battalions, and 10 independent companies of infantry.

On August 12, 1861, specific instructions for the reorganization of the United States Reserve Corps were given by Major-General Frémont, who had been assigned to the command of the Western Department. These instructions contemplated the organization of 5 regiments of infantry with a reserve of two companies to each, 2 squadrons of cavalry, and 2 batteries of light artillery, the whole force to be subject to the same regulations and to receive the same pay as other volunteers, except the reserve companies, which were to receive pay only when called into actual service. The full text of the instructions is as follows:

[Book No. 8, Department of the West, pp. 351-353.]

HEADQUARTERS WESTERN DEPARTMENT,
St. Louis, Mo., August 12, 1861.

SIR: Inasmuch as the term of the several regiments of the United States Reserve Corps in St. Louis has expired, or in a few days will expire, and the men be paid off, and as the present state of political affairs in Missouri, as well as the movements and designs of the enemy, will not permit their being permanently disbanded, I have determined, in order to promote the common welfare and protect public and private property, to have them forthwith reorganized.

The new organization will comprise 5 regiments of infantry with a reserve of 2 companies to each, 2 squadrons of cavalry, and 2 batteries of light artillery.

The troops will be required to enlist for the war, unless sooner discharged, and will (except the reserve companies) be subject to the same regulations and receive continuously the same pay as the volunteer regiments.

The reserve companies will be required to replace the Home Guard regiments, should the latter for any cause be called to other counties of this State, and will receive the regular pay of volunteers for such actual service. When not in service the reserve companies will be under more liberal regulations; they will not be obliged to perform guard duty, and their hours of drilling will, so far as possible, be made to conform to their peculiar public and private position.

In order to accomplish, without delay, this urgent reorganization of the Home Guard of the city of St. Louis, you are hereby directed to assemble your regiment at their headquarters, and ascertain from each man under your command whether he would prefer to continue in the regiment, or to join the cavalry or artillery, or serve only in the reserve for the above-mentioned peculiar emergencies.

After ascertaining in this way the wishes of the men you will proceed immediately to the reorganization of the infantry regiments.

The companies will in the first place elect their company officers, who will thereupon nominate their field officers and submit their names for approval to the general commanding the department.

The colonels, when accepted, will nominate a brigadier and submit his name in like manner for approval. After his appointment a brigadier inspector will be selected by the general commanding.

The officers of the regiment having been decided upon, the reorganization of the regiment, and, if possible, also that of the reserve companies should be immediately completed and the returns submitted to this department.

You will communicate this order to all the members of your regiment and proceed with the execution of it until the election and approval of a colonel, who will, immediately after his appointment, report himself with his officers to these headquarters, when the regiment will be uniformed, armed, equipped, and provided with everything necessary for actual service and at the same time with special instructions for drill and discipline.

The rolls of those men who should prefer to join the cavalry or artillery you will also submit as early as possible, with the officers suggested, to these headquarters.

Should any deficiency exist this department will supply all the different companies with efficient officers and complete their organization.

As it is my design to have in each regiment one company of sharpshooters and one company of pioneers, all the best marksmen should be concentrated in one company and all the best mechanics in another, under officers best adapted to the command of those companies.

J. C. FRÉMONT,
Major-General, Commanding.

Col. J. McNEILL,
United States Reserve Corps, St. Louis.

Their status as United States volunteers under the bounty and pension laws seem to have been conceded.

Three years' volunteers, Missouri.—These troops, like the Missouri militia of 1861, were enrolled and organized under the supervision of the United States military authorities. As finally reorganized this force consisted of 13 regiments of cavalry, 2 regiments of artillery, 1 regiment of engineers, and 23 regiments of infantry. That they rendered gallant service in defense of the Union is abundantly shown by the official records. As to the status of these troops in general, no comment is necessary beyond the mere statement of the fact that they were in the military service of the United States, and that the surviving members of the force and the heirs of those deceased are entitled to all the benefits accruing from such service. Their right to participate in all benefits from bounty and pension laws is unquestioned.

Six or twelve months' volunteers, Missouri.—These troops were called into the service of the Government in 1861, shortly after the reverses suffered at Bull Run, Va.

Under date of August 6, 1861, Hon. John S. Phelps and Hon. Frank P. Blair, jr., Members of the House of Representatives from the State of Missouri, addressed to the President a letter, in which they recommended the organization of a volunteer force to serve for six months, "to be employed in preserving peace and quiet" in the State of Missouri, to repel threatened invasion, "to remove the seat of war from among the people of that State to the southward, to invade Arkansas, and to keep the Indians west of that State under subjection."

Eleven regiments of six or twelve months' volunteers were organized in the State of Missouri during the civil war. Their status was that of volunteers in the military service of the United States.

The rights of officers and men of these troops to the benefits of bounty and pension laws is unquestioned, and the same may be said of the one, two, or three year volunteers, of which but one regiment was mustered into the United States service, the Fifty-fifth Missouri Volunteers, and it served but a little over four months, when, the war being practically ended, it was mustered out of service August 13, 1865.

Missouri Home Guards, 1861—From the commencement of the war Union-loving and patriotic citizens of Missouri were anxious and willing to enlist to repel invasion by confederate troops or guerrillas and to crush out the disloyal and secession element of that border State. General Lyon was one of the first to call the attention of the Government at Washington to the dangerous conditions in Missouri and recognized the value of the offer of the loyal citizens to enlist, and on June 11, 1861, he was authorized by the Secretary of War to enlist in the service of the United States such loyal citizens of Missouri as he thought proper, who should receive pay only when called into active service by the War Department. Under this authority the "Missouri Home Guards" of 1861 were organized. But although frequently, under the authority of the War Department, these troops were called upon to and did render faithful and efficient service, their services were not paid for until Congress took up the matter, and by a series of enactments appointed a commission called the Hawkins Taylor Commission, and their conclusions and subsequent action thereon are fully set forth in Senate Document 412, Fifty-seventh Congress, first session, pages 152 to 164, inclusive.

Those who served in the Missouri Home Guards, 1861, who were actually employed in the military service of the United States, have, through congressional legislation, the action of the Hawkins Taylor Commission, and the rulings of the executive departments, been placed upon the same footing as volunteers in the service of the United States with regard to pay, bounty, and pension, and discharges from the United States service are authorized.

OTHER MISSOURI ORGANIZATIONS.

1. Missouri Militia, organized under state convention ordinance dated April 8, 1865.

2. Citizen Guards, called out and organized under orders of General Rosecrans, No. 176, September 26, 1864, and other orders.

3. Marine Corps, organized by General Frémont, not entirely or largely of Missourians, but from several States.

4. Frémont's irregular organization generally.

None of these organizations or members of them have ever been accorded a status as United States Volunteers. They have never been recognized by the Congress or the President or any executive department of the Government as entitled to the benefits of any bounty or pension law of the United States.

The foregoing is a summary of the status of all the Missouri Volunteer and Home Guard Militia troops who participated at all in military operations in that State and that section during the civil war.

The following extract from the decision of Assistant Secretary of Interior John M. Reynolds, in the case of James L. Hicks (Pension Decisions, vol. 8, pp. 518-530), is also of interest as showing the military and pensionable status of the Missouri troops that were in service during the war:

There were in the State of Missouri, from the outbreak up to the end of the civil war, different bodies of men organized for military purposes under various conditions and circumstances, the purposes for which they were organized varying greatly. These organizations were: The Three Months Volunteers, the Six Months Militia, the Missouri State Militia, the Enrolled Missouri Militia, the Missouri Home Guards, the provisional regiments of Enrolled Missouri Militia, and the provisional companies of Enrolled Missouri Militia.

When President Lincoln, on April 15, 1861, issued his proclamation calling for 75,000 men, the state government of Missouri refused, through Governor Jackson, to furnish its quota, said government at the time being in sympathy with the secession cause. Accordingly, on April 30, 1861, Captain Lyon, in command of the St. Louis Arsenal, was authorized by the President—said authorization being conveyed through proper channels—to enroll and equip not more than 10,000 men for the purpose of maintaining federal authority. Under this order there were some 10 regiments formed which, at the time, were called Three Months Volunteers. These regiments, upon the completion of their organization, were mustered in the United States service and became thereby a part of the Federal Army, and the members thereof have consequently a pensionable status under subdivision 1, section 4693, Revised Statutes.

Later on the said state government was overthrown, a provisional government which was in sympathy with the Federal Government was formed, and said government, through its governor, H. R. Gamble, issued an order, dated August 24, 1861, the terms of which called for a force of 42,000 men "for the purpose of maintaining the power of the Federal Government." The organizations formed under this order were called Six Months Militia, and were organized wholly for the purpose of state defense. They were never called into the service by the President, never acted under orders of an officer of the United States, and consequently the members of such Six Months Militia do not fall within section 4693 of the Revised Statutes.

In December, 1861, a military force was organized in the State of Missouri, under authority of the War Department of the United States, which force was known as the Missouri State Militia. There were in these organizations from 10,000 to 13,000 men. They were all enlisted and regularly mustered into the federal service, and have, therefore, title under subdivision 1, section 4693, Revised Statutes.

In July, 1862, the governor of Missouri called into the service of his State all arms-bearing citizens subject to military duty. This was done by virtue of Special Order 101, and all organizations formed under said order were known as the Enrolled Missouri Militia. The United States Government furnished these troops with subsistence and transportation, with clothing, camp and garrison equipage while in active state service. They were, however, never called into the service of the United States by the President, never acted under orders of any United States officer, and consequently are not pensionable under any existing law.

During the year 1861 there were a large number of military organizations in the State of Missouri known as the Missouri Home Guards. These organizations were not reorganized as militia, were never ordered or accepted into the federal service by the President, but they performed military service in Missouri during the summer and fall of 1861, under the orders of officers of the United States, which service was of notable benefit to the Federal Government. By reason of such service an act was passed on March 25, 1862, which provided for pay, bounty, and pension to all members of such organizations. On July 12, 1862, however, payment was suspended under this act and a commission was created which was appointed on March 18, 1863, and is now known by the name of its chairman as the Hawkins Taylor Commission. To this commission was delegated the duty to examine and report upon all claims presented by persons under the act of March 25, 1862. This commission reported that the Missouri Home Guards were divided into two classes, the first of which was composed of companies organized for the protection of their respective neighborhoods. The commission stated that the claims of this class did not come under either the act of March 25, 1862, or the act creating the commission. The members of class 1 are, therefore, held as nonpensionable. Class 2, however, was made up of all organizations which were regularly called out and which actually served in the field under authority from the Federal Government. Members of class 2 are therefore held to be within the general law.

The decision of the Hawkins Taylor Commission, which is based upon its records, is held to be final so far as actual service and length of service is concerned, and in the Missouri Home Guards' claims, where service is not shown either by the records of the Adjutant-General of the United States or by the report of the Hawkins Taylor Commission, members of such organizations have no pensionable status.

By virtue of a circular letter from the Missouri state authorities, dated February 3, 1863, the provisional regiments of Enrolled Missouri Militia were formed. These regiments were made up of a picked force from the Enrolled Missouri Militia. They were formed for continuous active service so long as the emergency existed, and the act of March 3, 1873, was passed, whereby the benefits of the general law were extended to these organizations. The provisions of said act have been incorporated in the Revised Statutes in section 4722, and this section governs the pensionable status of members of the provisional regiments of Enrolled Missouri Militia.

There were organized in June, 1864, military bodies which came into existence by virtue of General Order 107, which order emanated from the adjutant-general of the State, the object of which, it appears, was to provide military bodies for state defense. These provisional companies were solely state organizations and were organized for state purposes, none of the companies appearing to have ever done any federal service. They were never mustered into the federal service and were never recognized by federal authorities. When relieved from duty their arms, ammunitions, and accouterments were turned over to the State. Members of these organizations, therefore, are not entitled to pension under any law.

It may be stated, then, as conclusions based upon the foregoing:

The Three Months' Volunteers are pensionable under the first subdivision of section 4693 of the Revised Statutes.

The Six Months' Militia are not pensionable under any existing law.

Company A, Kimball's Six Months' Militia, Missouri, was never in the federal service. Joseph Kennedy (Asst. Sec. Reynolds, 188 L. B., 97); Thomas Haladay (Asst. Sec. Bussey, 5 P. D., 413).

Company A, Mercer County Battalion, Six Months' Missouri Militia, was never in the federal service, and the act of February 15, 1895, does not apply to said organization. James Vanderpool (Asst. Sec. Reynolds, 188 L. B., 482).

The Missouri State Militia are pensionable under the first subdivision of section 4693, Revised Statutes.

The Enrolled Missouri Militia are not pensionable under any existing law.

Company A, Mercer County Battalion, Missouri Militia, was never in the federal service. E. A. Hunt (Asst. Sec. Reynolds, 183 L. B., 441).

Members of the Enrolled Missouri Militia have no pensionable status under the general law or the act of June 27, 1890. James H. Motley (Asst. Sec. Reynolds, 111 L. B., 63); G. H. Daniel (*ibid*, 112 L. B., 459), and John Schaffer (*ibid*, 122 L. B., 167).

A member of Company I, Seventy-first Regiment Enrolled Missouri Militia, is not pensionable under the first paragraph of section 4693, Revised Statutes, not being enlisted in the service of the United States, nor under the third paragraph of said section, unless his claim was prosecuted to a successful issue prior to July 4, 1874, not under section 4722, Revised Statutes, as the provisions of said section do not extend to the Enrolled Missouri Militia. John W. Delany (Sec. Teller, 15 P. D., o. s., 353).

Soldier's service being in the Eighty-seventh Enrolled Missouri Militia, which was not in the service of the United States, a claim for pension by his minor children is not valid unless prosecuted to a successful issue prior to July 4, 1874, under sections 4693 and 4702, Revised Statutes. Minors of Hamilton S. Wilson (Asst. Sec. Hawkins, 2 P. D., 364).

There being no record that the Thirty-fourth Enrolled Missouri Militia was in the service of the United States, and claim not having been prosecuted to a successful issue as prescribed by section 4693, Revised Statutes, rejection of claim was proper. Frank W. Toppmeyer (Sec. Schurz, 6 P. D., o. s., 407).

The provisions of the "Joint resolution to restore the status of the Missouri militia who served during the late war" do not extend to the Enrolled Missouri Militia nor to the provisional companies of Missouri militia. Widow of John H. Schuler (Asst. Sec. Reynolds, 8 P. D., 462).

Section 4722, Revised Statutes, does not extend the benefits of the general pension laws to the whole of the Enrolled Missouri Militia, but only to that comparatively small portion of it that was called the Provisional Missouri Militia or the Provisional Enrolled Missouri Militia, and to them only under the circumstances stated. Said section does not cover service in Company A, Fifty-sixth Regiment, Enrolled Missouri Militia; and as this claim was not filed until 1882, it is not admissible under the third paragraph of section 4693, Revised Statutes. Mary A. Seidenstein (Sec. Teller, 12 P. D., o. s., 367).

Members of class 1 of the Missouri Home Guards are not pensionable under the first subdivision, section 4693, Revised Statutes.

Neither Major Rapley's Battalion, Company A, Missouri Home Guards, nor Capt. William R. Gregory's Company A, Butler County Home Guards, appears of record by the Hawkins-Taylor Commission report, or by the record of the Adjutant-General of the United States, and members thereof have no pensionable status. Riley Hutchinson (Asst. Sec. Reynolds, 126 L. B., 237).

Neither the Jackson County Home Guards nor the Westport Missouri State Militia appear of record by the Hawkins-Taylor Commission or the Adjutant-General of the United States Army, and members of these organizations have no pensionable status. Albert Flacy (Asst. Sec. Reynolds, 121 L. B., 436).

Members of class 2 of the Missouri Home Guards are pensionable under the first subdivision, section 4693, Revised Statutes.

Members of class 2, Missouri Home Guards, are pensionable under first subdivision, section 4693, Revised Statutes. Messer and Morrison (Asst. Sec. Bussey, 6 P. D., 20).

The officers and members of the German Regiment, Missouri Home Guards, their widows and children, are entitled to pension. Charles J. H. Noach (Sec. Schurz, 7 P. D., o. s., 250).

The Provisional Regiments of Enrolled Missouri Militia are pensionable under the first subdivision, section 4693, Revised Statutes.

The claim of a member of a provisional regiment, Enrolled Missouri Militia, comes under section 4722, Revised Statutes, but the United States is not charged with any duty in regard to the records of the military forces to which such section applies, as such forces were within the State of Missouri and cooperating with the United States forces; and the decision in James H. Carpenter, concerning the records of the War Department, does not apply, as it refers only to those organizations which were accepted into the service of the United States. John C. Hargraves (Sec. Kirkwood, 9 P. D., o. s., 166).

Provisional regiments, Enrolled Missouri Militia, are pensionable under section 4722, Revised Statutes. Messer and Morrison (Asst. Sec. Bussey, 6 P. D., 20).

The provisional companies of Enrolled Missouri Militia were companies organized under General Order 107, which emanated from the governor of Missouri, and members thereof are not entitled to pension under any law.

Captain Cook's company, Boone County Provisional Enrolled Missouri Militia, was a provisional company, and members of such organization have no pensionable status. Thomas Hundel (Asst. Sec. Reynolds, 118 L. B., 488).

It may be stated that nothing in this opinion should be construed as cutting off the pensionable status of any individual who claims by reason of individual personal service under subdivision 3, section 4693, Revised Statutes, subject, however, to the limitations therein contained; and that the report of the Hawkins Taylor commission is conclusive only as to those organizations which were in existence at the time the said commission closed its examination.

But little need be said as to applicability of the act of June 27, 1890, to members of the different State militia or State military organizations. A conditional precedent for pensionable status under said act is ninety days' service in the military or naval forces of the United States and an honorable discharge from such service. It therefore follows that unless a soldier was in the military or naval service of the United States (his status being determined by subdivision 1, or class 1, subdivision 3 of section 4693, Revised Statutes) he does not fall within the provisions of the act of June 27, 1890, and in many of the decisions cited in this opinion it has been held that claimants are not entitled to the benefits of said act for the reason that they were never in the military or naval service of the United States.

By joint resolution approved February 15, 1895, the provisions of the act of June 27, 1890, were extended to "officers and privates of the Missouri State Militia and the Provisional Missouri Militia," thus virtually allowing a pensionable status under the act of June 27, 1890, to those individuals who were pensionable according to the general law under section 4722, Revised Statutes.

The provisions of the "joint resolution to restore the status of the Missouri Militia who served during the late war" do not extend to the Enrolled Missouri Militia, nor to the provisional companies of Missouri Militia. Widow of John H. Schuler. (Asst. Sec. Reynolds, 8 P. D., 462.)

It may be further stated that the report of the Hawkins Taylor Commission is accepted as final under the act of June 27, 1890, as to length of service if the report of said commission shows that it passed upon that question.

OHIO.

Ohio on several occasions during the war furnished militia for the purpose of protecting her borders and repelling invaders within her boundaries. On September 1, 1862, when Gen. Kirby Smith's confederate troops invading Kentucky marched rapidly toward the Ohio River with the intention of making an attack upon the city of Cincinnati, Gen. Lew Wallace, then in command of the United States forces at that post, called out the militia of that city.

Under this call the Second, Sixth, Eighth, and Eleventh Regiments Ohio Militia were organized, and they were at once ordered to the front in the State of Kentucky by Maj. Gen. H. G. Wright, then commanding the Department of the Ohio. These regiments served faithfully doing guard and picket duty, and when an engagement with the forces of Gen. Kirby Smith seemed imminent were in line of battle all day. At the end of thirty days they were discharged from further service, the apparent danger for which they were called out being over. Congress provided for the pay and recognition of these troops by acts approved June 8, 1864, and July 5, 1866, and they are now considered as having been in the military service of the United States, and have pensionable status under the general law. Their service of thirty days entitles them to no pensionable rights under the act of June 27, 1890.

Capt. S. W. Bard's company of cavalry and Capt. August Paulsen's battery, of Cincinnati, were ordered into service at the same time, and have been accorded recognition as United States forces under the act of Congress approved July 5, 1866.

On July 12, 1863, Governor Todd, by proclamation, ordered Ohio Militia into service for the purpose of resisting the threatened invasion of the State by the rebel forces under General Morgan. The service the militia then rendered was of brief duration and comparatively unimportant. The records of the office of the adjutant-general of the State of Ohio are not complete as to these troops and only show a roster of the company and regimental officers.

The First Regiment Ohio Volunteer Light Artillery was, it is said, the first body of artillery to engage in the service of the United States during the civil war. It was hastened to the front on the 21st of April, 1861, and rendered valued service in the campaign in West Virginia. They served until July 27, 1861. By some act of omission, due probably to the haste with which they were sent to the front, this regiment was not mustered into the service of the United States. While all the other Ohio three-months' troops were mustered by United States officers and recognized as United States troops, this regiment, for some reason, was mustered out by a member of the governor's staff, and until within a few years past was recognized as only a state organization. Congress, by act approved December 19, 1902, provided that the officers and enlisted men of the First Regiment Ohio Volunteer Artillery shall be held and considered to have been in the military service of and to have formed a part of the Military Establishment of the United States during the period for which said organization was enlisted and was in active service, in virtue of which law they are given pensionable status.

PENNSYLVANIA.

In the early fall of 1862 and again in the early summer of 1863 Pennsylvania organized a large body of militia or emergency troops, primarily for the defense of the State and incidentally and ultimately for the support of the Union armies under McClellan and Meade in their fierce conflicts with Lee's army of northern Virginia in the campaigns north of the Potomac River, made famous by the battles of South Mountain and Antietam, Maryland, and Gettysburg, Pa.

Twenty-six regiments of Pennsylvania emergency militia were raised in 1862, numbered from the first to the twenty-fifth, inclusive, and one known as the "National Guard Regiment," and also a number of independent companies of infantry, cavalry, and artillery. The following summary of the organization and service of the Pennsylvania Militia of 1862 is taken from the *History of Pennsylvania Volunteers*, by Samuel P. Bates (vol. 5, pp. 1147, 1148):

The rebel army had no sooner achieved its triumph in the second battle of Bull Run than it hastened northward and commenced crossing the Potomac. The southern border of Pennsylvania lay in close proximity, all unprotected, and by its rich harvests invited invasion. The reserve corps, which was originally organized for the state defense, had been called away to the succor of the hard-pressed army of McClellan upon the Peninsula, and was now upon the weary march, with ranks sadly thinned in the hard-fought battles of Mechanicsville, Gaines Mill, Charles City Cross Roads, and the second Bull Run, to again meet the foe, but powerless to avert the threatened danger. The result of the struggle on the plains of Manassas was no sooner known than the helpless condition of the State, which had been apparent from the first, became a subject of alarm. On the 4th of September, Governor Curtin issued a proclamation, calling on the people to arm and prepare for defense. He recommended the immediate formation of companies and regiments throughout the Commonwealth, and, for the purposes of drill and instruction, that after 3 p. m. of each day all business houses be closed. On the 10th, the danger having become imminent, the enemy being already in Maryland, he issued a general order calling on all able-bodied men to enroll immediately for the defense of the State, and to hold themselves in readiness to march upon an hour's notice, to select officers, to provide themselves with such arms as could be obtained, with 60 rounds of ammunition to the man, tendering arms to such as had none, and promising that they should be held for service for such time only as the pressing exigency for state defense should continue. On the following day, acting under the authority of the President of the United States, the governor called for 50,000 men, directing them to report by telegraph for orders to move, and adding that further calls would be made as the exigencies should require. The people everywhere flew to arms and moved promptly to the state capital.

One regiment and 8 companies were sent forward during the night of the 12th, and others followed as fast as they could be organized. On the 14th the head of the Army of the Potomac met the enemy at South Mountain and hurled him back through its passes, and on the evening of the 16th and day of the 17th a fierce battle was fought at Antietam. In the meantime the militia had rapidly concentrated at Hagerstown and Chambersburg, and Gen. John F. Reynolds, who was at the time commanding a corps in the Army of the Potomac, had assumed command. Fifteen thousand men were pushed forward to Hagerstown and Boonsboro, and a portion of them stood in line of battle in close proximity to the field in readiness to advance, while the fierce fighting was in progress. Ten thousand more were posted in the vicinity of Greencastle and Chambersburg, and "about 25,000," says Governor Curtin, in his annual message, "were at Harrisburg, on their way to Harrisburg, or in readiness and waiting for transportation to proceed thither." The Twenty-fifth Regiment, under command of Colonel Dechert, at the request of General Halleck, was sent to the State of Delaware, to guard the Dupont Powder Mills, whence the National armies were principally supplied. But the enemy was defeated at Antietam and retreated in confusion across the Potomac. The emergency having passed, the militia regiments were ordered to return to Harrisburg, and in accordance with the conditions on which they had been called into service they were, on the 21st, mustered out and disbanded. The train on which the Twentieth Regiment was returning over the Cumberland Valley road collided, when nearing Harrisburg, with one passing in the opposite direction, by which 4 men were killed and 30 injured.

In a letter addressed to Governor Curtin by General McClellan, thanking him for his energetic action in calling out the militia and placing them in the field, the general adds: "Fortunately circumstances rendered it impossible for the enemy to set foot upon the soil of Pennsylvania, but the moral support rendered to my army by your action was none the less mighty. In the name of my army and for myself I again tender to you our acknowledgments for your patriotic course. The manner in which the people of Pennsylvania responded to your call and hastened to the defense of their frontier no doubt exercised a great influence upon the enemy." In an order issued by Governor Bradford, of Maryland, soon after the battle he says: "To Governor Curtin, of Pennsylvania, and the militia of his State who rallied with such alacrity at the first symptoms of an invasion, our warmest thanks are also due. The readiness with which they crossed the border and took their stand beside the Maryland brigade shows that the border is, in all respects, but an ideal line, and that in such a cause as now unites us Pennsylvania and Maryland are but one."

These militia troops were organized at various dates between September 1 and 21, 1862, and were discharged at various dates between September 15 and October 15, 1862. The longest period of service for any of them was one month.

In June, 1863, a considerable body of Pennsylvania state troops were organized to meet the emergency occasioned by the threatened invasion of that State by the Confederate army under General Lee. These troops were not mustered into the service of the United States, but were called out by Governor Curtin for the defense of the State as long as the exigencies of the time required. They are generally known as the "Emergency militia or the ninety-day militia of 1863," and consisted of 28 regiments of infantry from the thirty-second to the sixtieth, inclusive (except the thirty-third), together with several batteries and independent companies. They numbered about 25,000 men and were temporarily under the command of United States officers and were cooperating with United States forces. They were not mustered into the military service of the United States, but they were placed under command of officers of the United States, and while so commanded they were taken beyond the limits of the State and kept beyond those limits for a comparatively short period. The following is taken from Bates's *History of Pennsylvania Volunteers* (vol. 5, pp. 1227 et seq.) regarding this militia force:

On the 26th (June, 1863) Governor Curtin issued his proclamation declaring that the enemy in force was advancing upon the border and calling for 60,000 men to be mustered into the service of the State for ninety days, but to remain only so long as the safety and honor of the Commonwealth should require. Under this call 28 regiments of infantry, numbered from the thirty-second to the sixtieth (except the thirty-third), besides several independent companies and batteries, were organized. Five of these regiments, the fifty-fourth to the fifty-eighth, inclusive, were organized in the Department of the Monongahela, at camps established in the vicinity of Pittsburgh; the remainder in the Department of the Susquehanna—the forty-sixth in a camp at Huntingdon, the thirty-eighth, thirty-ninth, forty-first, forty-second, forty-third, forty-eighth and fifty-third at Reading, the fifty-first, fifty-second, fifty-ninth, and sixtieth at Philadelphia, and the remaining regiments at Harrisburg.

During the 1st, 2d, and 3d days of July a fierce battle was fought about Gettysburg, in which the rebel army was beaten and compelled to retire toward the Potomac. So rapid were the movements of the armies and so soon after the call for the militia was made was the decisive battle fought that the men had scarcely arrived in camp and been organized before the danger was past. The major portion of those assembled at Harrisburg were pushed forward up the Cumberland Valley, a part of them joining the Army of the Potomac in Maryland, and stood in readiness to participate in the battle which it was anticipated would be fought in the vicinity of Williamsport. But on the 13th and 14th the rebel army made good its escape, and the campaign was at an end.

The militia was, however, held for some time after this, and was employed on various duty. The Thirty-sixth Regiment was sent to Gettysburg, and its commanding officer, Col. H. C. Alleman, was made military governor of the district embracing the

battle ground. It was engaged in gathering in the wounded and stragglers from both armies, in collecting the debris of the field, and in sending away the wounded as fast as their condition would permit. The Fifty-first Regiment, Colonel Hopkinson, was also on duty at Gettysburg after the battle. The Forty-seventh Regiment, Col. J. P. Wickersham, returned from the neighborhood of Williamsport to Reading, and was thence sent to the mining regions of Schuylkill County, where a collision with disaffected parties for a time was imminent, but was averted without violence. The Thirty-eighth Regiment, Colonel Horn, the Forty-ninth, Colonel Murphy, and the Fifty-third, Colonel Royer, were also sent to portions of the State bordering upon the Schuylkill and the North Branch of the Susquehanna rivers, where they were employed in enforcing authority. The Thirty-fourth, Col. Charles Albright, was sent to Philadelphia, and arrived at a time when turbulent spirits seemed intent on riot and bloodshed. Wild disorders such as at this time were raging in the streets of New York appeared likely to break forth here at any moment. By the exercise of great discretion and by a friendly conference with a class who could influence the mob he succeeded in allaying excitement and securing peace and quiet. The Forty-sixth, Col. John J. Lawrence, and the Fifty-ninth, Col. George P. McLean, were also sent to Philadelphia, where they rendered important service at a most critical time.

On the 16th of June (1863), the day after Lee crossed the Potomac, John Morgan, a daring rebel cavalry leader, set out from Sparta, Tenn., where he occupied a position on the flank of Bragg's army, with 2,000 men and 4 guns, for a raid through Kentucky, Indiana, and Ohio, intended as a diversion in favor of the invading army. Fighting his way to the Ohio River, having a sharp conflict at Tibbs Bend, on Green River, and picking up recruits as he went, until his forces were doubled and his guns were increased to 10, he crossed at Brandenburg, 40 miles below Louisville, on the 7th of July, and struck boldly out through the country, burning mills, destroying railroads and telegraph lines, and levying contributions of money and horses on the inhabitants. Trees were felled to impede his course, and the militia sprang up on all sides.

* * * * *

When it became evident that Morgan, failing to escape, was heading toward Pennsylvania, General Brooks was ordered to send out a portion of his forces by rail from Pittsburg, to guard the upper fords of the Ohio, and assist in the capture of the rebel chieftain. The Fifty-fifth Pennsylvania Militia, Col. R. B. McComb, had been sent on the 11th (July) to Parkersburg, and when the approach of Morgan was heralded, in company with troops under Colonel Wallace, and three guns, it was posted at the fords in the vicinity, a part of the Fifty-fifth occupying the lower end of Blennerhassett Island. On Friday, General Brooks moved his headquarters temporarily to Wells-ville, and ordered three of his regiments, the Fifty-fourth, Col. Thomas F. Gallagher; the Fifty-seventh, Col. James R. Porter; and the Fifty-eighth, Col. George H. Bemus, to move down, and take position at the different fords along the river between Steubenville and Wheeling. The Fifty-seventh arrived first, and halting at Portland Station, took position to cover the Warrenton ford, Colonel Porter, with the right wing, occupying strong ground on the Hill road, and the left wing, under Major Reid, on the Valley road. The Fifty-eighth arrived next, and in conjunction with a section of artillery and two companies of Kentucky cavalry, occupied Le Grange, opposite Wellsville. The Fifty-fourth came last, and was ordered first to Mingo Station, and afterwards to the ford at Rush Run, midway the positions of the other two regiments. On Friday night, the 24th, Morgan was near Mount Pleasant, heading for Warrenton ford, where he would have crossed but for the timely arrival of Colonel Porter. On Saturday morning, being pressed in the rear, he again attempted to break through at Warrenton, but finding his way blocked, he turned northward toward Smithfield, feeling successively the positions of Gallagher and Bemus. Seeing that escape by these routes was equally hopeless, he again struck out and made for Richmond, passing by Steubenville. At Wintersville, on Saturday afternoon, he encountered the Steubenville militia, and at night bivouacked between Richmond and Springfield, his scouts reconnoitering the fords above. To checkmate this last move, Porter's command was moved up to Island Creek, while Gallagher and Bemus were posted at fords higher up, to intercept him if he should strike for Shanghai, Yellow Creek, or points further on. Learning by his scouts that all the avenues of escape were strongly held, he did not await the coming of the morning, but moved in the darkness in the direction of Salineville, where he was early attacked by Major Way, of the Michigan cavalry, and lost some three hundred in killed, wounded, and prisoners. Colonel Gallagher had reached Salineville by the Cleveland and Pittsburg Railroad, and had formed line of battle near the village; but after the charge of Major Way, the enemy drew off in the opposite direction and turned again northward, as if to strike Smiths ferry or Beaver.

Again were the Pennsylvania regiments moved up and preparations made to meet this new disposition, when tidings were received that General Shackleford had captured Morgan and what was left of his band. The prisoners were at once placed in charge of the Fifty-eighth, and were held until turned over to the authorities of the department, by whom they were incarcerated in the Ohio penitentiary, in retaliation for alleged irregular treatment of Colonel Straight by the rebel government. As soon as the chase for Morgan was ended, the Pennsylvania regiments returned to camp near Pittsburg.

With the close of this raid ended the rebel invasion of the North of 1863. Further service for which the militia had been called was no longer required, and during the months of August and September the majority of the men were mustered out. With few exceptions, they were not brought to mortal conflict. But they, nevertheless, rendered most important service. They came forward at a moment when there was pressing need. Their presence gave great moral support to the Union Army, and had that army been defeated at Gettysburg, they would have taken the places of the fallen and would have fought with a valor and desperation worthy of veterans. Called suddenly to the field from the walks of private life, without a moment's opportunity for drill or discipline, they grasped their muskets and by their prompt obedience to every order showed their willingness, all unprepared as they were, to face an enemy before whom veterans had often quailed. The bloodless campaigns of the militia may be a subject for playful satire, but in the strong arms and sturdy hearts of the yeomanry of the land, who spring to arms at the moment of danger and when that danger has passed cheerfully lay them down again, rests a sure guaranty for the peace and security of the country.

The Pennsylvania militia regiments of 1863 were organized at various dates between June 26 and July 13, 1863, and were mustered out at various dates between August 1 and September 9, 1863. A very few of them were in service for about sixty days; the greater number served but little more than thirty days.

The officers and men of the Pennsylvania Militia are given a pensionable status under the general law at the Pension Bureau by a decision of the Assistant Secretary of the Interior rendered March 3, 1892, in the case of Randolph M. Manley, Company I, Forty-seventh Pennsylvania Volunteer Militia, and reported in volume 5 of Pension Decisions, page 295. Their very brief service precludes any pensionable status under the act of June 27, 1890, but if any of them had served ninety days a pensionable service under that law by virtue of the above decision would undoubtedly be recognized.

The basis of the decision which gives the members of the Pennsylvania Militia a pensionable status is that they were called into service by the President of the United States and were, therefore, officers and enlisted men of militia employed in the military service of the United States as contemplated by the first paragraph of section 4693, Revised Statutes, which confers a pensionable benefit upon—

any officer of the army, including regulars, volunteers, and militia, or any officer in the Navy or Marine Corps, or any enlisted man, however employed, in the military or naval service of the United States, or in its Marine Corps, whether regularly mustered or not, disabled by reason of any wound or injury received, or disease contracted, while in the service of the United States and in the line of duty.

A distinctly different view, however, regarding the military status of the Pennsylvania Militia is taken by the War Department, the holding there being that these troops should not be considered as in the military service of the United States in the sense that they were a part of its military establishment, inasmuch as they were raised in response to a call, not of the President of the United States, but of the governor of the State of Pennsylvania, in which it was stated that "they will be mustered into the service of the State for the period of ninety days, but will be required to serve only so much of the period

of muster as the safety of our people and the honor of our State may require." An exhaustive statement regarding this matter is contained in a letter addressed by General Ainsworth to the Commissioner of Pensions, dated February 13, 1899, which is printed as a part of Senate Adverse Report No. 899, Fifty-sixth Congress, first session. That letter concludes with the statement that the military status of the Pennsylvania ninety-day state militia of 1863 is not described by any words used in the first paragraph of section 4693, Revised Statutes, quoted above, but that it is accurately and precisely described in the third paragraph of that section by the words "Any person not an enlisted soldier in the army, serving for the time being as a member of the militia of any State, under orders of an officer of the United States," and to such person that law gave only a limited pensionable status, namely, a status for wound or injury received in battle with the rebels or Indians, provided the claim was filed and completed prior to July 4, 1874, as explained in the first pages of this document.

However divergent these views may be regarding the military status of the Pennsylvania Militia, the fact remains that, whether properly or improperly, the members thereof are recognized at the bureau for full pensionable status under the general law. It is proper to remark that the adverse report (899) above mentioned was made on a bill (S. 394) proposing recognition by the National Government of the military status of the Pennsylvania Militia of 1863, thus showing that Congress adopted the view of the War Department regarding the military status of that body of troops.

The Erie regiment of Pennsylvania obtained some notoriety recently by reason of the erroneous allowance of pension to a few of its members, resulting in the resignation of several examiners of the Pension Bureau. This regiment was commanded by Col. John W. McLane, and consisted of 10 companies numbering about 800 men, rank and file. It was recruited in Erie and Crawford counties, Pa., and was organized April 21, 1861. It proceeded to Pittsburg April 28, and after three months went back to Erie, whence they had gone forth to do battle, without having seen the enemy, and was disbanded. It performed no service other than that of drill and guard duty. This regiment was not mustered into the military service of the United States and was never accepted or recognized as forming a part of the military establishment of the Federal Government, and its members have no pensionable status under existing laws. A considerable number of the officers and men of the Erie regiment served later in the Eighty-third, One hundred and eleventh, and One hundred and forty-fifth and other regiments of Pennsylvania Volunteers.

TENNESSEE.

The adjutant-general of Tennessee, replying to the letter addressed to him, forwards a report of the state archivist, who states that he finds no data from which to make a list of the Tennessee home guards and irregular troops that were in service during the war. The published report of the adjutant-general of Tennessee for the period of the war contains no information on this subject.

WEST VIRGINIA.

The following reply was received to the letter addressed to the adjutant-general of the State of West Virginia for information as to the West Virginia state militia and home guards in service during the war:

STATE OF WEST VIRGINIA,
ADJUTANT-GENERAL'S OFFICE,
Charleston, May 6, 1905.

SIR: By direction of the adjutant-general, I have the honor to acknowledge receipt of your letter dated May 4, 1905, and have noted carefully the information you desire. I regret exceedingly to advise you that the records for services rendered as stated by you are very incomplete, and part of them made out in a very crude manner by the commanding officers of the several organizations. These records have never been tabulated or a consolidated report made of this service; in fact, no history or report was ever published of the militia or state organizations for services rendered during the civil war, the legislature never making any appropriation for this work. From the condition of the records in question it would take from four to five months to prepare a complete and comprehensive statement as desired by you. This, I regret, can not be done on account of the lack of funds to meet the clerical expense.

Very respectfully,

A. S. HUTSON,
Assistant Adjutant-General.

The CHAIRMAN COMMITTEE ON PENSIONS,
United States Senate, Washington, D. C.

The published report of the adjutant-general of the State of West Virginia, dated January, 1866, pages 391, 392, contains the following list of West Virginia State guards organized during the war in different counties for the protection of such counties against guerillas:

Counties for which organized.	Date of organization.	Date of discharge.	Name of captain.
Barbour.....	Sept. 17, 1863	May 30, 1865	{ G. M. Yeager. M. T. Haller. Moore McNeel. M. Rollyson.
Braxton.....	Jan. 30, 1864	Mar. 10, 1865	{ F. Taylor.
Calhoun.....	Oct. 3, 1863	June 16, 1864	Wm. Ellison.
Clay.....	Apr. 16, 1863	May 30, 1865	B. L. Stephenson.
Doddridge.....	Nov. 4, 1863	June 20, 1864	H. S. Sayre.
Gilmer.....	May 9, 1864	May 30, 1865	W. T. Wiant.
Greenbrier.....	Dec. 13, 1864	July 1, 1865	A. W. Mann.
Lewis.....	Sept. 9, 1863	Nov. 9, 1864	J. C. Wilkinson.
Jackson.....	Aug. 14, 1863	May 30, 1865	G. L. Kennedy.
Do.....	do.....	Aug. 20, 1864	John Johnson.
Wood.....	Aug. 15, 1863	May 30, 1865	Wm. Logsdon.
Roane.....	Oct. 30, 1863	June 16, 1864	A. Donaldson.
Do.....	do.....	May 30, 1865	H. Chapman.
Do.....	do.....	do.....	Wm. Gandee.
Wirt.....	Feb. 18, 1864	June 20, 1864	H. S. Burns.
Do.....	Sept. 2, 1864	May 20, 1865	Wm. F. Pell.
Pendleton.....	Apr. 8, 1863	May 31, 1865	{ E. C. Harper. John Boggs.
Do.....	June 26, 1863	Apr. 15, 1865	{ Isaac Alt. M. Mallow.
Upshur.....	Sept. 4, 1863	June 9, 1864	J. L. Kesling.
Putnam.....	Apr. 7, 1864	May 30, 1865	John Ball.
Wayne.....	Dec. 9, 1863	May 9, 1864	W. R. Spaulding.
Preston.....	Mar. 1, 1864	Apr. 5, 1864	M. M. Pierce.
Tucker.....	Jan. 20, 1864	May 30, 1865	{ N. J. Lambert. J. H. Lambert.
Nicholas.....	May 3, 1864	June 30, 1865	J. R. Ramsay.
Hardy.....	Dec. 9, 1863	Mar. 10, 1865	J. S. Bond.
Do.....	June 24, 1864	Apr. 15, 1865	John Yocum.
Do.....	Sept. 5, 1864	Mar. 10, 1865	J. Rohrbouch.
Wayne.....	Mar. 22, 1864	May 9, 1864	Wm. Bartrum.
Do.....	do.....	do.....	Ira G. Cudley.
Do.....	May 7, 1864	Sept. 26, 1864	Benj. R. Haley.
Raleigh.....	Jan. 23, 1864	July 20, 1865	Wm. Turner.
Wyoming.....	do.....	Feb. 10, 1865	S. Mullins.

Counties for which organized.	Date of organization.	Date of discharge.	Name of captain.
Kanawha.....	Jan. 28, 1864	Sept. 26, 1864	R. Brooks.
Nicholas.....	Apr. 28, 1864	Dec. 13, 1864	Isaac Brown.
Marion.....	June 20, 1863	Dec. 10, 1864	N. Alltop.
Ritchie.....	May 7, 1864	Apr. 30, 1865	J. M. Woods.
Randolph.....	Apr. 12, 1864	Apr. 15, 1865	S. Snider.
Pocahontas.....	Apr. 29, 1864	Apr. 4, 1865	H. W. Allen. S. Young.
Cabell.....	Apr. 25, 1865	May 30, 1865	J. H. Ferguson.
Monroe.....	Apr. 6, 1865	June 20, 1865	B. F. Ballard.
Do.....	Apr. 1, 1865	do.....	L. D. Garton.
Mason.....	June 20, 1865	May 30, 1865	A. J. Waterson.
Wirt.....	Sept. 2, 1863	Feb. 29, 1864	G. W. Vaught.
Pocahontas, Randolph, and Webster.....	May 1, 1865	June 10, 1865	Isaac W. Allen.

Concerning these state guard companies the adjutant-general of West Virginia in his report dated January 1, 1865, page 7, says:

These companies are sworn into the service of the State for the term of one year, are paid and provided with arms, equipments, etc., by the State, and number from 25 to 50, and in two or three of the counties as many as 75 men each, thus making over 1,000 men in the state service in the border counties, without which there could have been no enforcement of the civil laws of the State nor collection of revenues for the United States, and the loyal people could not have remained at home. Although these companies are maintained at considerable expense to the State, yet I do not think their services could be very well dispensed with nor do I think the force should be diminished. During the past year they have participated in many engagements with the guerrillas, and have succeeded very well in the protection of those counties for which they are organized, and are quite able to do so, except against raids by large bodies of the enemy. This service is very arduous and dangerous, and such only as can be successfully accomplished by men who have lived in the country, who are thoroughly acquainted with it and the inhabitants. They are instructed to cooperate, as far as practicable, with the United States forces, and have proven very efficient as scouts and guides for our armies, and generally much more effective for the purpose for which they are intended than our soldiers in the United States service would be. During the past year we have received many favorable notices of the operations of these companies from the military commanders in different portions of the State.

Again, in his report for the year 1865, dated January, 1866, pages 8 and 9, referring to an appendix containing the foregoing list of companies of state guards, the adjutant-general of West Virginia makes the following remarks:

Appendix C is a statement of the organization and discharge of the companies of state guards organized in the border counties of the State for the protection of such counties against the marauding bands of guerrillas which have continually infested them since the commencement of the war. These companies were organized and paid by the State; many of them were in the service for nearly two years and some of them for a longer period. Although they have been maintained at considerable expense to the State, it can not be doubted that they have rendered very efficient service in the counties for which they were organized; they have been a great protection to the loyal people of the border counties, and have aided materially in the enforcement of the civil laws therein, without which those counties must have been abandoned by the loyal people, thus depriving them of representation in the legislature of the State and the State of considerable revenue.

About the 1st of June (1865), at the request of the Secretary of War, nearly all these companies were discharged and their arms and other state property turned over to the quartermaster-general of the State, under orders issued from this office. Regular discharges were prepared for each member of these companies, a record of which has been kept, that the men who have been engaged in this service may have the benefit of any legislation that may hereafter be made in their interest.

The conduct of these companies with few exceptions has been uniformly good, considering the slight restraint under which they were unavoidably held. Much objection was made against the organization of such companies for fear that they

would, under the slight authority given them and by virtue of their power, go beyond their authority and commit unwarrantable depredations. In this, however, their most bitter enemies have been disappointed and the most sanguine hopes of their friends more than realized.

West Virginia has also a body of state militia of which no definite information is obtainable, either from the state adjutant-general, as indicated by his letter above, or from the published reports of that officer. It appears that the state records of the militia were kept in a very imperfect and crude manner, but the Auditor for the War Department has records of the allowance for pay made to each individual member. This militia were called out on several occasions, and it is known that at least one company, namely, Company C, One hundred and thirty-third West Virginia Militia, was captured by the enemy while on duty at Centerville, W. Va., September 12, 1863, and its members confined in prisons at Richmond and Andersonville, suffering great hardships. Pensions by special act have been allowed in a few of these cases.

Concerning the West Virginia Militia the adjutant-general of that State, in his report dated January 1, 1865, page 11, states as follows:

I have prepared no statement of the organization of the militia of the State, from the fact that a full statement can not, at present, be furnished. Under the new state organization it is necessary to renumber and reorganize the different regiments; this has only been done in the First Division. In many of the other counties it will be necessary where there are two or three regiments in a county to consolidate them, and not being able to tell, under existing state of things in those counties, what the real militia force is, it has been deemed expedient to defer it for a time. If possible, this should be done during the coming year. The militia laws of this State should be compiled and published in pamphlet form, together with forms for reports, certificates, and orders of regimental courts making allowances, etc., for the use of the militia.

On two or three occasions during the past year it has been necessary to call out the Second and Third Brigades of militia, commanded by Generals Core and Bunker, to repel expected raids by the enemy, and the promptness with which these brigades responded to the orders and the cheerfulness with which they did duty as soldiers is indeed highly commendable.

Again, in his report dated January, 1866, he states:

No further attempt has been made to organize the militia since the date of my last report. It was impossible to do so in a large number of the counties before the suppression of the rebellion, and it was believed that when the war ended some very material and necessary changes would be made in the militia system of the State.

The state guards and militia of West Virginia have no pensionable status.

The number of state militia, home guards, and emergency men that were in service during the war can not be exactly or definitely stated. Col. Thomas L. Livermore, in his work entitled "Numbers and Losses in the Civil War in America," says that the enlistments in the Union Army during the war of the rebellion numbered 2,898,304, which included about 230,000 militia and "emergency men" who served short terms and some part of whom were not mustered into the United States service. He also says that this number of militia and "emergency men" must be reduced by the number of them who had previously served in the Volunteer Army and by those who subsequently enlisted and served in that army, being a part of the military establishment of the United States.

MISSISSIPPI RAM FLEET AND MARINE BRIGADE.

Another organization of a semimilitary or naval character which performed valuable service during the civil war was the Mississippi Ram Fleet and Marine Brigade. A part of this organization was made up of enlisted men, and these, of course, have a pensionable status under existing laws. But there were a number of men who served as soldiers, pilots, and in other capacities who were employed by the Quartermaster's Department, and these men, not having been mustered into the service, have no pensionable status. Numerous bills for their relief have been introduced in past Congresses, but no action has been taken.

The following report from the Adjutant-General gives a concise history of these organizations, and the letter from the Commissioner of Pensions explains their status with reference to pensions:

Relief of the men of the Mississippi Ram Fleet and Marine Brigade, their widows and minor children, under the act of June 27, 1890.

It is shown by the records that the Mississippi Ram Fleet was organized pursuant to instructions contained in a letter from the Secretary of War to Mr. Charles Ellet, jr., dated March 27, 1862, from which the following is an extract:

"You will please proceed immediately to Pittsburg, Cincinnati, and New Albany and take measures to provide steam rams for defense against ironclad vessels on the western waters.

"All contracts and purchases will be made by the special quartermaster to be appointed to act with you, and all expenditures will be made by him and under his direction."

On April 25, 1862, Mr. Ellet was authorized to engage crews "at current Mississippi River wages." On April 28, 1862, he was appointed a colonel and additional aid-de-camp, and was placed in command of the fleet known as the "Ram Fleet." Upon his death, in June, 1862, he was succeeded by Lieut. Col. (subsequently Brig. Gen.) A. W. Ellet.

Under the instructions cited above, 26 steamboats were converted into rams and transports during the years 1862 and 1863.

On November 11, 1862, Brigadier-General Ellet was authorized to organize a force, to be known as the "Mississippi Marine Brigade," for service in connection with the Ram Fleet. This force was made up partly from the members of volunteer organizations then in service, who were transferred to the Mississippi Marine Brigade, and partly from convalescents belonging to other volunteer organizations, who were permitted to be discharged from the regiments to which they belonged and to be remustered as members of the Marine Brigade.

The Mississippi Marine Brigade, as a separate organization, was discontinued in orders dated August 3, 1864, and such of its members as had been transferred to it were returned to the organizations to which they originally belonged, while those who had regularly enlisted into the force were consolidated into a regiment known as the "Marine Regiment, United States Volunteers," which was itself mustered out of service in pursuance of orders from this department dated December 5, 1864, its services being no longer required.

At the discontinuance of the Marine Brigade, in August, 1864, the vessels composing the Ram Fleet, with which the Marine Brigade had served, were turned over to the Quartermaster's Department, to be assigned as a part of the reserve transportation.

It will be seen from the foregoing that the members of the Mississippi Marine Brigade were regularly in the United States service, and, so far as this office is advised, they are on the same footing as regards all general laws passed for the benefit of volunteers as are the members of other volunteer organizations in service during the same period.

Nothing has been found of record to show that the crews of these vessels (masters, pilots, engineers, sailors, etc.), for whom relief is proposed in the pending bill, were mustered into the military service of the United States, and there are no rolls or other records on file in this office from which their number or the nature or length of their

service can be ascertained. It is probable, however, that they were paid for their services as civilian employees by the quartermasters on duty at or near the places where their services were rendered.

Respectfully submitted.

F. C. AINSWORTH,
The Adjutant-General.

WAR DEPARTMENT,
THE ADJUTANT-GENERAL'S OFFICE,
January 21, 1908.
The SECRETARY OF WAR.

DEPARTMENT OF THE INTERIOR,
BUREAU OF PENSIONS,
Washington, February 6, 1908.

MY DEAR SIR: In reply to your letter of the 30th ultimo, received on the 31st, you are advised that early in the year 1862 a number of steamboats (nine, according to the data in this bureau) were purchased by the War Department and converted into rams for the specific purpose of operating against confederate war vessels then assembled in the lower Mississippi, and after the destruction of those vessels were used for general operations against the enemy. Supply vessels, hospital ships, etc., were added to the fleet from time to time and also transport vessels carrying armed men detailed from the regular military service and formed into an organization known as the Mississippi Marine Brigade and used chiefly against guerrillas along the river. They were enlisted men, and after the disbandment of the brigade in 1864 were returned to the regiments from which they had been detailed. Most of the officers and crews of the vessels, however, were civilians employed by the Quartermaster's Department of the Army.

Separate and distinct from the above was the Western Gunboat Flotilla or Mississippi Fleet. In 1861 the military authorities organized a fleet of steam gunboats for service on the western rivers. Vessels were purchased or built by the Quartermaster's Department and officers to command them were detailed from the navy, as were also some enlisted men, but the crews were very largely composed of civilians who were employed by the Quartermaster's Department of the Army. The vessels were employed in active offensive operations against the enemy and participated in several engagements, notably at Fort Henry, Fort Donelson, Island No. 10, Pittsburg Landing, Memphis, and Vicksburg, and many persons employed on them were killed and wounded in action. On October 1, 1862, the members of this fleet were transferred to the navy under an act of Congress, and their service from that date is pensionable under the same conditions as other service in the navy.

Persons who served as civilians on the war vessels of either of these fleets are pensionable for disability incurred in service by virtue of paragraph 2 of section 4693, Revised Statutes, as follows:

"Any master serving on a gunboat, or any pilot, engineer, sailor, or other person not regularly mustered serving upon any gunboat or war vessel of the United States, disabled by any wound or injury received, or otherwise incapacitated, while in line of duty, for procuring his subsistence by manual labor."

The words "gunboat or war vessel" are construed by this bureau to mean vessels which were manned and used in offensive and defensive operations against the enemy; so that civilians employed on vessels of the fleets used for other purposes are not now pensionable even for disability incurred in service.

As to the number who would probably be affected by the extension of the provisions of the act of June 27, 1890, to the class of persons mentioned above, the bureau has very meager data upon which to base an estimate. If restricted to those who served on vessels of the Ram Fleet and Mississippi Marine Brigades, as provided by the bill of which you submit a copy, it would probably affect about 500 persons; if extended also to the Western Gunboat Flotilla, about 500 more.

Very respectfully,

V. WARNER, *Commissioner.*

Mr. R. W. FARRAR,
Clerk Committee on Pensions, United States Senate.

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